



Local Government (Scotland) Act 1973

1973 CHAPTER 65

PART V

INTERNAL ORGANISATION

Discharge of functions

56 Arrangements for discharge of functions by local authorities

- (1) Subject to any express provision contained in this Act or any Act passed after this Act, a local authority may arrange for the discharge of any of their functions by a committee of the authority, a sub-committee, an officer of the authority or by any other local authority in Scotland.
- (2) Where by virtue of this section any functions of a local authority may be discharged by a committee of theirs, then, unless the local authority otherwise direct, the committee may arrange for the discharge of any of those functions by a subcommittee or an officer of the authority.
- (3) Where by virtue of this section any functions of a local authority may be discharged by another local authority, subsections (1) and (2) above shall apply in relation to those functions as they apply in relation to the functions of that other authority, except that—
 - (a) the foregoing provision shall have effect subject to the terms of the arrangement relating to the functions ; and
 - (b) that other authority shall not, by virtue of this sub section, arrange for the discharge of those functions by some other local authority.
- (4) Any arrangement made by a local authority or committee under this section for the discharge of any functions by a committee, sub-committee, officer or local authority shall not prevent the authority or committee by whom the arrangement is made from exercising those functions.
- (5) Two or more local authorities may discharge any of their functions jointly and, where arrangements are in force for them to do so,—

Status: This is the original version (as it was originally enacted).

- (a) they may also arrange for the discharge of those functions by a joint committee of theirs or by an officer of one of them, and subsection (2) above shall apply in relation to those functions as it applies in relation to the functions of the individual authorities ; and
 - (b) any enactment relating to those functions or the authorities by whom or the areas in respect of which they are to be discharged shall have effect subject to all necessary modifications in its application in relation to those functions and the authorities by whom and the areas in respect of which (whether in pursuance of the arrangements or otherwise) they are to be discharged.
- (6) A local authority's functions with respect to determining a rate or borrowing money shall be discharged only by the authority.
- (7) A local authority shall not make arrangements under this section for the discharge of any of their functions under the Diseases of Animals Act 1950 by any other local authority.
- (8) Any enactment, except one mentioned in subsection (9) below, which contains any provision—
- (a) which empowers or requires local authorities or any class of local authorities to establish committees (including joint committees) for any purpose or enables a Minister to make an instrument establishing committees of local authorities for any purpose, or empowering or requiring a local authority or any class of local authorities to establish committees for any purpose; or
 - (b) which empowers or requires local authorities or any class of local authorities to arrange or to join with other authorities in arranging for the exercise by committees so established or by officers of theirs of any of their functions or provides that any specified functions of theirs shall be discharged by such committees or officers, or enables any Minister to make an instrument conferring such a power, imposing such a requirement or containing such a provision;
- shall, to the extent that it makes any such provision, cease to have effect.
- (9) The following enactments are exempted from subsection (8) above—
- (a) section 36 of the Fire Service Act 1947 so far as relating to administration schemes;
 - (b) sections 19, 20, 21 and 21A of the Police (Scotland) Act 1967 (amalgamation schemes);
 - (c) section 2 of the Social Work (Scotland) Act 1968 (social work committees);
 - (d) paragraph 3 of Schedule 3 to the said Act of 1968 (children's panel advisory committees);
 - (e) section 7 of the Superannuation Act 1972 (superannuation of persons employed in local government service, etc.);
 - (f) section 9 of the said Act of 1972 (superannuation of teachers).
- (10) This section shall not authorise a local authority to arrange for the discharge by any committee, sub-committee or local authority of any functions which, by any enactment mention in subsection (9) above, are required or authorised to be discharged by a specified committee, but the foregoing provision shall not prevent a local authority who are required by or under any such enactment to establish, or delegate functions to, a committee established by or under any such enactment from arranging under this section for the discharge of their functions by an officer of the local authority or committee, as the case may be.

- (11) In accordance with such directions as the Secretary of State may give in that regard, the Strathclyde Regional Council shall before 31st December 1974 prepare and submit to him for his approval proposals setting forth the arrangements made by them for the discharge of their functions under the Education (Scotland) Acts 1939 to 1973 and the Social Work (Scotland) Acts 1968 and 1972.
- (12) The Secretary of State may approve, with or without modifications, proposals submitted to him under subsection (11) above or may refuse to approve them, and any such proposals may be varied or revoked by subsequent proposals which shall be submitted to the Secretary of State for approval or otherwise as aforesaid.
- (13) The Strathclyde Regional Council shall cause their said functions to be discharged in accordance with any proposals approved under subsection (12) above, and on 15th May 1978 subsections (11) and (12) above and this subsection shall cease to have effect.
- (14) References in this section and section 57 below to the discharge of any of the functions of a local authority include references to the doing of anything which is calculated to facilitate, or is conducive or incidental to, the discharge of any of those functions.
- (15) Nothing in this section affects the operation of the Local Authorities (Goods and Services) Act 1970.

57 Appointment of committees

- (1) For the purpose of discharging any functions of a local authority in pursuance of arrangements made under section 56 of this Act—
 - (a) the authority may appoint a committee of the authority; or
 - (b) two or more local authorities may appoint a joint committee of those authorities; or
 - (c) any such committee may appoint one or more sub-committees.
- (2) Subject to the provisions of this section, the number of members of a committee appointed under subsection (1) above, their term of office, and the area (if restricted) within which the committee are to exercise their authority, shall be fixed by the appointing authority or authorities or, in the case of a subcommittee, by the appointing committee.
- (3) A committee appointed under subsection (1) above, other than a committee for regulating and controlling the finance of the local authority or of their area may, subject to section 59 below, include persons who are not members of the appointing authority or authorities or, in the case of a sub-committee, the authority or authorities of whom they are a sub-committee, but at least two-thirds of the members appointed to any such committee (other than a sub-committee) shall be members of that authority or those authorities, as the case may be.
- (4) A local authority may appoint a committee, and two or more local authorities may join in appointing a committee, to advise the appointing authority or authorities on any matter relating to the discharge of their functions, and any such committee—
 - (a) may consist of such persons (whether members of the appointing authority or authorities or not) appointed for such term as may be determined by the appointing authority or authorities ; and

- (b) may appoint one or more sub-committees to advise the committee with respect to any such matter.

- (5) Every member of a committee appointed under this section who at the time of his appointment was a member of the appointing authority or one of the appointing authorities shall, upon ceasing to be a member of that authority, also cease to be a member of the committee; but for the purposes of this section a member of a local authority shall not be deemed to have ceased to be a member of the authority by reason of retirement if he has been re-elected a member thereof not later than the day of his retirement.

58 Expenses of joint committees

The expenses incurred by a joint committee appointed under this Part of this Act or any other enactment shall be defrayed by the appointing local authorities in such proportions as they may agree or, in case of disagreement, as may be determined by the Secretary of State.

59 Disqualification for membership of committees and joint committees

- (1) Subject to section 126 of this Act, a person who is disqualified under Part III of this Act for being elected or being a member of a local authority shall be disqualified for being a member of a committee (including a sub-committee) of that authority, or being a representative of that authority on a joint committee of the authority and another local authority, whether the committee or joint committee are appointed under this Act or under any other enactment.
- (2) Section 32 of this Act shall, so far as applicable, apply with respect to membership of or a claim to be entitled to act as a member of a committee or sub-committee of a local authority or of a joint committee appointed by local authorities as it applies to membership of or claims to be entitled to act as a member of a local authority.

60 Disability for voting on account of interests in contracts, etc.

Sections 38 to 42 of this Act shall apply as respects members of a committee or sub-committee of a local authority or of any joint committee appointed by two or more local authorities, whether the committee, sub-committee or joint committee are appointed under this Act or under any other enactment, as they apply in respect of members of local authorities, subject to the following modifications—

- (a) as respects members of a committee or sub-committee, references to meetings of the committee or subcommittee shall be substituted for references to meetings of the local authority; and
- (b) as respects members of a joint committee, references to meetings of the joint committee shall be substituted for references to meetings of the local authority.

61 Membership of bodies to cease on ceasing to be member of authority

Where a local authority by virtue of any enactment or instrument or otherwise appoint a member of the authority to be a member of any court or body, then, unless otherwise specifically provided in the enactment or instrument regulating the constitution of the court or body, the person so appointed shall cease to be a member of the court or body on ceasing to be a member of the authority.

62 Standing orders, etc.

A local authority appointing a committee, and local authorities appointing a joint committee, either under this Act or under any other enactment, may make, vary or revoke standing orders respecting the quorum, proceedings and place of meeting of the committee, joint committee or any subcommittee of any such committee, but, subject to any such standing orders, the quorum, proceedings and place of meeting shall be such as the committee, joint committee or sub-committee may determine.

63 Application of foregoing provisions of Part V to police authorities and joint police committees

- (1) Subsections (2) to (4) below shall have effect for the purposes of the application of the foregoing provisions of this Part of this Act to a local authority in relation to their functions as a police authority.
- (2) A police authority may not arrange under section 56(1) of this Act for the discharge of any of their functions by another police authority or a district council.
- (3) The following provisions of this Part of this Act shall not apply to a police authority—
 - (a) in section 56, subsections (3), (5) and (10),
 - (b) section 57(1)(b).
- (4) Section 62 of this Act shall not apply in a case where a joint police committee are constituted by or under an amalgamation scheme made under Part I of the Police (Scotland) Act 1967.
- (5) Subsections (1) and (2) of section 56 of this Act shall apply to a joint police committee as they apply to a local authority except that—
 - (a) they may not arrange for the discharge of any of their functions by another joint police committee or a police authority or district council, or
 - (b) if the function relates to part only of the combined area in respect of which the committee are exercising functions, they may not arrange for the discharge of that function by any other person.

Staff

64 Appointment, etc. of staff

- (1) Subject to the provisions of this Act, a local authority shall appoint such officers as they think necessary for the proper discharge by the authority of their functions and the carrying out of any obligations incurred by them in connection with an agreement made by them in pursuance of section 65 of this Act.
- (2) An officer appointed under subsection (1) above shall hold office on such reasonable terms and conditions, including conditions as to remuneration, as the authority appointing him think fit.
- (3) Where an action has been brought against an officer of a local authority in respect of an act done by him in the execution or purported execution of any enactment and the circumstances are such that he is not legally entitled to require the authority to indemnify him, the authority may nevertheless indemnify him against the whole or a part of any damages or expenses which he may have been ordered to pay or may have incurred if they are satisfied that he honestly believed that the act complained of was

within the scope of his employment and that his duty under the enactment required or entitled him to do it.

- (4) Any enactment, except one mentioned in subsection (5) below, which requires or empowers local authorities or any class of local authorities to appoint a specified officer shall, to the extent that it makes any such provision, cease to have effect.
- (5) The following enactments are excepted from subsection (4) above—
- (a) sections 18 and 19 of the Fire Services Act 1947 (chief officers and members of fire brigades);
 - (b) section 6(3) of the Representation of the People Act 1949 (registration officers);
 - (c) section 86 of the Education (Scotland) Act 1962 (directors of education);
 - (d) section 41 of the Weights and Measures Act 1963 (weights and measures inspectors);
 - (e) section 3 of the Social Work (Scotland) Act 1968 (directors of social work);
 - (f) section 36 of the Social Work (Scotland) Act 1968 (reporters); and
 - (g) section 67(3)(b) of the Agriculture Act 1970 (agricultural analysts and deputies).
- (6) Nothing in this section affects the operation of section 7 of the Registration of Births, Deaths and Marriages (Scotland) Act 1965 (registrars) or the operation of the Local Authorities (Goods and Services) Act 1970.
- (7) Nothing in subsections (1) and (2) above affects the operation of section 9 of the Police (Scotland) Act 1967 (employees other than constables).

65 Placing of staff of local authorities at disposal of other local authorities

- (1) Without prejudice to any powers exercisable apart from this section, a local authority may enter into an agreement with another local authority for the placing at the disposal of the latter for the purposes of their functions, on such terms as may be provided by the agreement, of the services of officers employed by the former, but shall not enter into any such agreement with respect to any officer without consulting him.
- (2) For superannuation purposes, service rendered by an officer of a local authority whose services are placed at the disposal of another local authority in pursuance of this section is service rendered to the authority by whom he is employed, but any such officer shall be treated for the purposes of any enactment relating to the discharge of local authorities' functions as an officer of that other local authority.

66 Security to be taken in relation to officers

- (1) A local authority shall, in the case of an officer employed by them, whether under this or any other enactment, who by reason of his office or employment is likely to be entrusted with the custody or control of money, and may, in the case of any other officer employed by them, take such security for his duly accounting for all money or property which may be entrusted to him, as the local authority consider sufficient.
- (2) A local authority may, in the case of a person not employed by them but who is likely to be entrusted with the custody or control of money or property belonging to the local authority, take such security as they think sufficient for the person duly accounting for all such money or property.

- (3) A local authority shall defray the cost of any security taken under this section, and every such security shall be produced to the auditor at the audit of the accounts of the local authority.

67 Members of local authorities not to be appointed as officers

A person shall, so long as he is, and for twelve months after he ceases to be, a member of a local authority, be disqualified for being appointed by that authority to any paid office, other than to the office of chairman.

68 Disclosure by officers of interest in contracts

- (1) If it comes to the knowledge of an officer employed, whether under this Act or any other enactment, by a local authority that a contract in which he has any pecuniary interest, whether direct or indirect (not being a contract to which he is himself a party), has been, or is proposed to be, entered into by the authority or any committee thereof, he shall, as soon as practicable, give notice in writing to the authority of the fact that he is interested therein.

For the purposes of this section, an officer shall be treated as having indirectly a pecuniary interest in a contract or proposed contract if he would have been so treated by virtue of section 39 of this Act had he been a member of the authority.

- (2) An officer of a local authority shall not, under colour of his office or employment, accept any fee or reward whatsoever other than his proper remuneration.
- (3) Any person who contravenes the provisions of subsection (1) or (2) above shall be liable on summary conviction to a fine not exceeding £200.
- (4) References in this section to a local authority shall include references to a joint committee appointed under section 57 of this Act or any other enactment.