



# District Courts (Scotland) Act 1975

## 1975 CHAPTER 20

### PART III

#### MISCELLANEOUS AND GENERAL

##### *Miscellaneous*

#### **19 Compensation**

- (1) The Secretary of State shall, by regulations made with the consent of the Minister for the Civil Service, provide for the payment by such person as may be prescribed, subject to such exceptions and conditions as may be prescribed, of compensation to or in respect of persons who are or were clerks of the peace, justice of the peace fiscals or the holders of such other office or employment as may be prescribed and who suffer loss of employment or loss or diminution of emoluments which is attributable to any provision of this Act.
- (2) Regulations under this section may—
  - (a) include provision as to the manner in which and the person to whom any claim for compensation is to be made, and for the determination of all questions arising under the regulations;
  - (b) make different provisions for different classes of persons and for other different circumstances;
  - (c) be framed so as to have effect from a date earlier than the making of the regulations, but not so as to place any person in a less favourable position than he would have been in if they had not been so framed.
- (3) Any statutory instrument containing regulations under this section shall be subject to annulment in pursuance of a resolution of either House of Parliament.

#### **20 Custody of records**

- (1) Subject to section 1 of this Act and the provisions of this section, the clerk of the peace for any area shall, on or before 15th May 1975, transmit to the Keeper of the Records of

Scotland all justice of the peace records, other than records relating to licensing under the Licensing Acts, being records of which at that date he has the custody under the Public Records (Scotland) Act 1937; and, for the purposes of this subsection, justice of the peace records shall be deemed to include the commission of the peace.

- (2) Subject to subsections (3) and (4) below, records of county licensing courts and courts of appeal shall, on or before 15th May 1975, be transferred to and vest in the local authority concerned within whose area the court to which those records relate has jurisdiction.
- (3) Where the area within which such a court has jurisdiction is divided so that the area falls within the areas of two or more districts, the records relating to that court shall be transferred to and vest in the district council whose area includes, according to the latest census (not being a sample census), the greater part of the population of the area within which that court has jurisdiction.
- (4) Where, under subsection (3) above, the records of a court have vested in a district council, that council shall make the records available for consultation to any other council to which that subsection relates.
- (5) All records relating to the appointment of justices of the peace for any commission area under this Act, to their acts as justices for that area (whether under the Licensing Acts or not), and to their ceasing to hold office as justices for that area, shall be records of the local authority concerned; and shall be records belonging to that authority for the purposes of section 200(7) to (10) of the Local Government (Scotland) Act 1973.
- (6) Any dispute as to the vesting of records under this section shall be referred to and determined by the Secretary of State, whose decision in the matter shall be final.

## **21      Amendment of Legal Aid (Scotland) Act 1967 and Legal Advice and Assistance Act 1972**

- (1) In section 2(5)(b) of the Legal Aid (Scotland) Act 1967 (financial conditions of legal aid), after the word " sheriff " there shall be inserted the words " or in a district court ".
- (2) In section 2(5)(b) of the Legal Advice and Assistance Act 1972 (advice and assistance), for the words "' a sheriff'" there shall be substituted the words "' a sheriff or a district court '".

## **22      Amendment of sections 28 and 29 of the Licensing (Scotland) Act 1959**

For sections 28 and 29 of the Licensing (Scotland) Act 1959 (clerk to licensing courts and courts of appeal and fees payable), there shall be substituted the following sections—

### **“28 Clerk to licensing courts and courts of appeal.**

- (1) The council of every islands area or district shall appoint and employ, whether on a full-time or part-time basis—
  - (a) an officer to be the clerk of every licensing court and court of appeal having jurisdiction within their area, and
  - (b) such other persons as may be necessary to assist that officer or to act on his behalf as clerk or assistant clerk of those courts.

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- (2) Where under an agreement an officer of a regional council is placed at the disposal of a district council for the purposes of this section, that officer may perform the duties of clerk or assistant clerk of the aforementioned courts.

**29 Fees payable.**

- (1) The Secretary of State may prescribe the fees payable by any applicant to a licensing court or court of appeal.
- (2) The fees mentioned in subsection (1) above shall not include fees payable under the provisions of the Betting, Gaming and Lotteries Acts 1963 to 1971 or of the Gaming Act 1968.
- (3) Fees prescribed by the Secretary of State under subsection (1) above shall, on being paid by any applicant to the court, be paid over by the clerk of that court to the council which defrays the expenses of that court under section 21 of this Act.”

**23 District court and justice of peace expenses and destination of fines**

- (1) All expenses in connection with the district court and justice of the peace business shall be defrayed by the local authority concerned.
- (2) Except where otherwise provided, all fines imposed in the district court shall accrue to the local authority concerned.
- (3) A local authority shall defray the expenses of any appeal in which the district prosecutor is involved in connection with proceedings brought by him in his capacity as district prosecutor.
- (4) A local authority may defray the expenses of any action brought against the district prosecutor in connection with the exercise of his functions, and may relieve him from any liability imposed as a result of such an action.
- (5) Having regard to the additional expenditure incurred or likely to be incurred by local authorities in the year 1975-76, which is attributable to the coming into operation of any provision of this Act, the Secretary of State may redetermine for that year the amount and portion mentioned in section 2(2)(a) and (b) of the Local Government (Scotland) Act 1966, and by an order, made in the like manner and subject to the like provisions as a rate support grant order, increase the amount fixed by the relevant rate support grant order as the aggregate amount of the rate support grants and any element of the grants for that year.
- (6) The provisions of sections 2 and 3 of the said Act of 1966, relating to consultation and to a report of the considerations leading to a determination under the said section 2, shall apply to a redetermination under subsection (5) above as they apply to a determination under that section.
- (7) Expressions used in subsections (5) and (6) above have the same meanings as in the said Act of 1966.

*General***24 Amendments and repeals**

- (1) The enactments mentioned in Schedule 1 to this Act shall have effect subject to the amendments respectively specified in that Schedule, being minor amendments or amendments consequential on the provisions of this Act.
- (2) The enactments specified in Schedule 2 to this Act (which includes certain obsolete or unnecessary enactments) are hereby repealed to the extent specified in the third column of that Schedule.
- (3) The Secretary of State may by order amend, repeal or revoke any provision of an Act passed or an instrument under an Act made before 16th May 1975 if it appears to him that that provision is inconsistent with any provision of this Act or requires modification in consequence of this Act.
- (4) Where any local enactment provides for any matter which is also provided for by any provision of this Act or of any order made thereunder, the provision of this Act, or, as the case may be, of that order, shall have effect in substitution for the local enactment, which shall cease to have effect.
- (5) Any order made under this section shall be made by statutory instrument, which shall be subject to annulment in pursuance of a resolution of either House of Parliament.

**25 Expenses**

There shall be defrayed out of moneys provided by Parliament—

- (a) any expenses incurred by the Secretary of State under this Act; and
- (b) any increase attributable to the provisions of this Act in the sums payable out of moneys so provided under any other enactment.

**26 Interpretation**

- (1) In this Act, unless the context otherwise requires—
  - " clerk of the district court " includes such depute clerk as may be required for the purposes of any district court;
  - " commission area " means a district or islands area within the meaning of the Local Government (Scotland) Act 1973 ;
  - " district prosecutor " includes such depute or assistant district prosecutor as may be required for the purposes of any district court;
  - " justice " or " justice of the peace " means a justice of the peace appointed under section 9 of this Act or deemed to have been so appointed ;
  - " licensing court " and " court of appeal " have the same meanings as in the Licensing (Scotland) Act 1959;
  - " local authority " means a district council or an islands council;
  - " prescribed " means prescribed by regulations made by the Secretary of State.
- (2) Any power conferred by this Act to make an order shall include power, exercisable in like manner and subject to the same conditions, to vary or revoke the order by a subsequent order.

- (3) Unless the context otherwise requires, any reference in this Act to any other enactment is a reference thereto as amended, extended or applied by or under any other enactment, including this Act.

**27 Short title, extent and commencement**

- (1) This Act may be cited as the District Courts (Scotland) Act 1975, and, except section 24(1) and subsection (2) below and the entries in Schedule 1 to this Act relating to the Magistrates' Courts Act 1952 and to section 18(1) of the Police (Scotland) Act 1967, extends to Scotland only.
- (2) This Act, except sections 8, 10, 11, 14, 16, 17, 20, 23, 26 and this section, shall come into force on 16th May 1975.