



# Local Government and Planning (Scotland) Act 1982

## 1982 CHAPTER 43

An Act to make further provision as regards local government and planning in Scotland; to abolish as regards Scotland certain powers of entry and advisory committees; to amend the Tenants' Rights, Etc. (Scotland) Act 1980; and for connected purposes. [30th July 1982]

### Modifications etc. (not altering text)

- C1** Act explained by [National Heritage \(Scotland\) Act 1985](#) (c. 16, SIF 78), s. **20(1)(3)**
- C2** Act modified by [Dockyard Services Act 1986](#) (c. 53, SIF 58), s. **3(1)(c)**, and by [Legal Aid \(Scotland\) Act 1986](#) (c. 47, SIF 77:2), s. 1, **Sch. 1 para. 1(4)**

## PART I

### VALUATION AND RATING ETC.

[<sup>F1</sup>1

In section 5 of the <sup>M1</sup>Local Government (Scotland) Act 1966 (which among other things provides that an element of rate support grant payable to a local authority may be reduced where the Secretary of State is satisfied that the total estimated expenses of the authority are excessive and unreasonable)—

- (a) in subsection (1)—
- (i) for the word “If”, where it occurs for the first time, there shall be substituted the words “Subject to subsections (1A)(b) and (3) below, if” ; and
  - (ii) the words “; and if the report is approved by a resolution of the Commons House of Parliament the Secretary of State may reduce the element of the grant accordingly” shall cease to have effect ;
- (b) at the end of subsection (1A) there shall be added the words “; and different such categories may be left out of account according to whether the proposed

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reduction under this section is of a rate or of the amount of an element of rate support grant.” ; and

- (c) after subsection (2) there shall be inserted the following subsections—
- “(3) Where the Secretary of State is satisfied as is mentioned in paragraph (c) of subsection (1), as read with subsection (1A), above, he may in his report under the said subsection (1), instead of or in addition to proposing a reduction in the amount of an element of rate support grant, propose a reduction in the rate determined by the local authority ; and the provisions of the said subsection (1) shall apply to the amount of, reasons for and representations with respect to, the proposed reduction in rate as they apply to a proposed reduction in the amount of such element.
- (4) If a report under subsection (1) above is approved by the Commons House of Parliament and contains a proposal—
- (a) to reduce an element of rate support grant, the Secretary of State may reduce that element by an amount not exceeding the amount of the reduction proposed ;
- (b) that there should be a reduction in the rate determined by the authority to which the report relates, the authority shall forthwith determine under this paragraph a new rate less, by the proposed reduction in the rate or by such smaller amount as the Secretary of State may agree, than the rate determined by them under section 108 of the Local Government (Scotland) Act 1973:
- Provided that where, for any reason whatsoever, by the twenty-eighth day after the approval under this section of a report an authority have not made a determination required, in relation to that report, by paragraph (b) above the authority shall be deemed to have determined on that day a rate under the paragraph such that the reduction proposed under subsection (3) above by the Secretary of State is effected.
- (5) If an authority determine a rate under paragraph (b) of subsection (4) above, or are deemed by virtue of the proviso to that subsection to have determined such a rate, that rate and not the rate determined under the said section 108 shall be their regional, general or district rate, as the case may be, for the financial year and shall be levied (and the rights and liabilities of ratepayers shall be construed) accordingly.
- (6) The Secretary of State may by order under this subsection repeal or amend any enactment (including this Act) in so far as that enactment relates to the determination, levy or payment of a regional, general or district rate and such determination, levy or payment is affected by a determination (or deemed determination) under paragraph (b) of subsection (4) above.
- (7) An order made under subsection (6) above shall have no effect until approved by resolution of each House of Parliament.
- (8) A reference in this Act (except this section) and in any other enactment (except subsection (1) of the said section 108) whether passed before or after the passing of this Act, to such rates as are

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determined under the said section 108 shall be construed as including a reference to such rates as are determined, or are deemed to have been determined, under paragraph (b) of subsection (4) above.

(9) Section 19 of the Local Government (Miscellaneous Provisions) (Scotland) Act 1981 (which among other things empowers the Secretary of State to make certain estimates where a local authority fail to supply him timeously with information) shall apply for the purposes of such of the Secretary of State’s functions under this section as do not relate to rate support grants as it applies for the purposes of those which do.”.]

**Textual Amendments**

**F1** S. 1 repealed (1.4.1994) by [Abolition of Domestic Rates Etc. \(Scotland\) Act 1987 \(c. 47, SIF 81:2\)](#), s. 34, [Sch. 6](#)

**Modifications etc. (not altering text)**

**C3** The text of s. 1, 3, Sch. 3, 4 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and, except as specified, does not reflect any amendments or repeals which may have been made prior to 1.2.1991

**Marginal Citations**

**M1** 1966 c. 51.

2 .....<sup>F2</sup>

**Textual Amendments**

**F2** S. 2 repealed by [Abolition of Domestic Rates Etc. \(Scotland\) Act 1987 \(c. 47, SIF 81:2\)](#), s. 34, [Sch. 6](#)

[<sup>F3</sup> **Redetermination of estimated aggregate amount of rate support grants.**

For subsection (1) of section 4 of the <sup>M2</sup>Local Government (Scotland) Act 1966 (which among other things empowers the Secretary of State to increase the amount fixed by a rate support grant order if he is satisfied that the relevant expenditure of local authorities has been, or is likely to be, substantially increased by an increase in prices, costs or remuneration) there shall be substituted the following subsection—]

“(1) The Secretary of State may, at any time after the estimated aggregate amount of the rate support grants has been fixed for any year, redetermine, under section 2(2) of this Act, that amount for that year.”.

**Textual Amendments**

**F3** S. 3 repealed (1.4.1994) by [Abolition of Domestic Rates Etc. \(Scotland\) Act 1987 \(c. 47, SIF 81:2\)](#), s. 34, [Sch. 6](#)

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**Modifications etc. (not altering text)**

- C4** The text of s. 1, 3, Sch. 3, 4 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and, except as specified, does not reflect any amendments or repeals which may have been made prior to 1.2.1991

**Marginal Citations**

- M2** 1966 c. 51.

**4 Rating of plant and machinery.**

- (1) For the purpose of exempting from, or including in, any assessment or rate a class or classes of machinery, machines or plant, the Secretary of State may, in the definition of “lands and heritages” in section 42 of the <sup>M3</sup>Lands Valuation (Scotland) Act 1854, amend by order that proviso which relates to the construction of the expression “machinery fixed or attached”; and without prejudice to the generality of the foregoing provisions of this subsection, such amendment may be as regards—
- (a) any plant fixed or attached to the lands and heritages; and
  - (b) any building which is an integral part of such plant.
- (2) An order under subsection (1) above shall have no effect until approved by resolution of each House of Parliament.

**Marginal Citations**

- M3** 1854 c. 91.

**5 Valuation of and reduction and remission of rates payable in respect of communal accommodation for single people.**

- (1) In section 4 of the Local Government (Financial Provisions etc.) (Scotland) Act 1962 (which provides for reduction and remission of rates payable by charitable and other organisations)—
- (a) in subsection (2)—
    - (i) after paragraph (b) there shall be inserted the words—
 

“; or
    - (c) are within any such category as the Secretary of State may by order specify, being a category of lands and heritages which are not used for profit-making purposes, which are wholly or mainly used as residential accommodation for persons living separately from any family and in which certain facilities are shared by those persons,” ;
  - (ii) after the words “described in” there shall be inserted the word “—(i)”; and
  - (iii) after the words “one-half” there shall be inserted the following sub-paragraph—
 

“(ii) paragraph (c) of this subsection shall not exceed such fraction (and different fractions

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may be specified for different cases) as the Secretary of State may by the said order specify,” ;

- (b) in subsection (5)(a), for the words “or (b)” there shall be substituted the words “(b) or (c)” ; and
- (c) at the end there shall be added the following subsection—

“(12) An order under subsection (2)(c) of this section shall have no effect until approved by resolution of each House of Parliament.”.

- (2) Where the Secretary of State has power under paragraph (c) of section 4(2) of the said Act of 1962 (the which paragraph is inserted by subsection (1) above) to specify a category of lands and heritages he may instead or in addition prescribe a method whereby the values of, or of certain of, those lands and heritages are, for the purpose of making up any valuation roll, to be ascertained.
- (3) Prescription under subsection (2) above shall be by order made by statutory instrument; and such order shall have no effect until approved by resolution of each House of Parliament.

**Modifications etc. (not altering text)**

- C5** The text of s. 5(1), 6, 7, 9(2), 10–13, 20, 21, 22(a)–(c) 23, 31, 36–50, 56–59, 60(1)(a)(b)(2), 66, Sch. 1 Pt. II, Sch. 2 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

## PART II

### LOCAL AUTHORITY FUNCTIONS

#### **6 Effect of specific power or duty to incur expenditure at one tier of local government on exercise of general such power at different tier.**

In section 83 of <sup>M4</sup>the 1973 Act (which provides a local authority with a general power to incur certain expenditure which it is not explicitly empowered to incur)—

- (a) in subsection (2), after the word “that”, where it occurs for the first time, there shall be inserted the words “.subject to subsection (3A) below,” ; and
- (b) after subsection (3) there shall be inserted the following subsection—

“(3A) Where one of any two local authorities is a regional council and the other a district council, neither authority shall under the foregoing provisions of this section—

- (a) incur; or
- (b) unless invited to do so by the other authority, contribute towards defraying, expenditure which the other authority are, either unconditionally or subject to any limitation or to the satisfaction of any condition, expressly authorised (or required) to incur by or by virtue of any enactment other than this section.”

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#### Modifications etc. (not altering text)

- C6** The text of s. 5(1), 6, 7, 9(2), 10–13, 20, 21, 22(a)–(c) 23, 31, 36–50, 56–59, 60(1)(a)(b)(2), 66, Sch. 1 Pt. II, Sch. 2 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

#### Marginal Citations

- M4** 1973 c. 65.

## 7 Functions of local authority in relation to industrial promotion.

In the 1973 Act, after section 154 there shall be inserted the following sections—

### “154A Industrial promotion.

- (1) Subject to the following provisions of this section, a local authority may engage in industrial promotion: that is to say in promotion having as its aims the establishment or development of, or the procuring of investment in, or the effecting of measures to provide or safeguard employment in, industry.
- (2) Without prejudice to any power which they may have under section 90 of this Act, no local authority shall engage in industrial promotion other than under subsection (1) above.
- (3) In engaging in industrial promotion under subsection (1) above a regional or islands council may do anything, whether in Scotland or elsewhere, which appertains to or is conducive or incidental to such promotion; but the powers of a district council under that subsection shall be limited to—
  - (a) within their own area, doing anything which appertains to or is conducive or incidental to such promotion ;
  - (b) in any part of the United Kingdom, but only as regards specific industrial sites or premises (being sites or premises owned by them) and such services and other facilities as are or will be available in relation to such sites or premises, doing anything mentioned in, or incidental to anything mentioned in, paragraph (a) or (d) of the definition of “promotion” in subsection (4) below ; and
  - (c) at the invitation of—
    - (i) the Secretary of State ;
    - (ii) the regional council within whose area the area of the district council is ; or
    - (iii) a body designated, by order, for the purposes of this paragraph by the Secretary of State,
 contributing financially to, or participating in, any such promotion engaged in by the inviter or inviters:

Provided that for a regional or islands council to engage in, for a district council to participate in, or for any local authority to contribute financially to, industrial promotion outside the United Kingdom it shall be necessary for them either to have the express consent of the Secretary of State or to be acting in accordance with a general consent given by him.

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- (4) In the foregoing provisions of this section, unless the context otherwise requires—
- “industry” has the same meaning as in the Industry Act 1975 ; and “promotion” includes—
- (a) advertising; and preparing and disseminating information ;
  - (b) participating in trade or investment missions ;
  - (c) holding or taking part in such activities as seminars, exhibitions and symposiums ; and
  - (d) carrying on correspondence and holding meetings with persons who are (or are potential or prospective) developers, investors or employers.
- (5) The exercise by a local authority of any power which they have—
- (a) under section 7 of the Local Government (Development and Finance) (Scotland) Act 1964 (power to make advances for erection of buildings) ;
  - (b) by virtue of section 102 (compulsory acquisition of land in connection with development and for other planning purposes) or under section 109 (acquisition of land by agreement) of the Town and Country Planning (Scotland) Act 1972 ; or
  - (c) under section 70, 74 or 78 of this Act,
- shall be subject to the foregoing provisions of this section.

#### **154B Code of practice for industrial promotion.**

- (1) Subject to subsection (2) below, the Secretary of State may issue (or arrange for there to be issued) a code of recommended practice as to the discharge of functions under section 154A of this Act by local authorities.
- (2) Before issuing (or arranging for the issue of) a code under subsection (1) above the Secretary of State shall consult any association of local authorities which appears to him to represent the interests of local authorities in Scotland.
- (3) The Secretary of State may by statutory instrument, subject to annulment in pursuance of a resolution of either House of Parliament, make regulations requiring local authorities to conform to any code issued under subsection (1) above.”.

#### **Modifications etc. (not altering text)**

- C7** The text of s. 5(1), 6, 7, 9(2), 10–13, 20, 21, 22(a)–(c) 23, 31, 36–50, 56–59, 60(1)(a)(b)(2), 66, Sch. 1 Pt. II, Sch. 2 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

## **8 Power of local authority to enter into arrangements under Employment and Training Act 1973.**

Every local authority [<sup>F4</sup>(a)] shall have power and shall be deemed always to have had power to enter into arrangements with . . . <sup>F5</sup> the Secretary of State under the provisions of the Employment and Training Act <sup>M5</sup>1973. [<sup>F6</sup>and

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- (b) shall have power to take part in any arrangements made in pursuance of section 2(3) of the Enterprise and New Towns (Scotland) Act 1990 (which relates to arrangements made by Scottish Enterprise and by Highlands and Islands Enterprise for persons to train for employment etc.).]

#### Textual Amendments

- F4** Words from “shall” where first occurring to “1973” become paragraph (a)(1.4.1991) by virtue of [Enterprise and New Towns \(Scotland\) Act 1990 \(c. 35, SIF 64\)](#), s. 38(1), **Sch. 4 para. 13**
- F5** Words repealed by virtue of [Employment Act 1989 \(c. 38, SIF 43:1\)](#), s. 29(4), **Sch. 7 Pt. I**
- F6** Word “and” and para. (b) inserted (1.4.1991) by [Enterprise and New Towns \(Scotland\) Act 1990 \(c. 35, SIF 64\)](#), s. 38(1), **Sch. 4 para. 13**

#### Marginal Citations

- M5** [1973 c.50\(43:1\)](#).

## 9 Re-allocation of responsibility for certain local authority functions relating to the countryside.

- (1) As regards the <sup>M6</sup>Local Government (Development and Finance) (Scotland) Act 1964 and the <sup>M7</sup>Countryside (Scotland) Act 1967, the functions described in the sections thereof mentioned in the first column of Part I of Schedule 1 to this Act, being functions presently carried out by the bodies mentioned in the second column, shall, subject to subsection (3) below, henceforth only be carried out by the bodies mentioned in the third column.
- (2) In consequence of the re-allocation of functions which is provided for in subsection (1) above the said Acts of 1964 and 1967 shall have effect subject to the amendments mentioned in Part II of the said Schedule.
- (3) Notwithstanding the said re-allocation of responsibilities, regional councils and regional planning authorities may, so far as appears to them to be expedient for the purpose of exercising their functions under sections 40 (functions as regards long-distance routes), 48 (functions as regards country parks), 48A (functions as regards regional parks), 49A (functions as regards management agreements concerning the countryside), 61 and 63 (functions as regards the recreational use of waterways) of the said Act of 1967, exercise any function conferred on any other local authority or planning authority either by that Act or by the said Act of 1964.

#### Modifications etc. (not altering text)

- C8** The text of s. 5(1), 6, 7, 9(2), 10–13, 20, 21, 22(a)–(c) 23, 31, 36–50, 56–59, 60(1)(a)(b)(2), 66, Sch. 1 Pt. II, Sch. 2 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

#### Marginal Citations

- M6** [1964 c. 67](#).
- M7** [1967 c. 86](#).



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## 10 Re-allocation of responsibility for the establishment of nature reserves.

In section 21 (1) of the <sup>M8</sup>National Parks and Access to the Countryside Act 1949 (which relates to the establishment of nature reserves), for the words “a regional, islands or district council” there shall be substituted the words “a general or district planning authority”.

### Modifications etc. (not altering text)

**C9** The text of s. 5(1), 6, 7, 9(2), 10–13, 20, 21, 22(a)–(c) 23, 31, 36–50, 56–59, 60(1)(a)(b)(2), 66, Sch. 1 Pt. II, Sch. 2 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

### Marginal Citations

**M8** 1949 c. 97.

## 11 Islands or district council’s functions in relation to tourism.

(1) In section 90 of the <sup>M9</sup>1973 Act (which among other things empowers a local authority to encourage tourism in their area)—

(a) in subsection (1)—

(i) for the words “A local authority” there shall be substituted the words “An islands or district council” ;

(ii) in paragraph (a) after the word “otherwise” there shall be inserted the words “(and whether inside or outside the United Kingdom)” ; and

(iii) at the end of the subsection there shall be added the following proviso—

“:

Provided that any power under this subsection to do anything outside the United Kingdom shall be exercisable only with the express or general consent of the Secretary of State or with the express consent of such body as he may direct the islands or district council to consult.” ; and

(b) for subsection (2) there shall be substituted the following subsections—

“(2) Without prejudice to subsection (1) above, an islands or district council may contribute towards expenses incurred by any person in his doing (or body in their doing) anything mentioned in paragraph (a) or (b) of that subsection:

Provided that where such thing is done by the person (or body) outwith the United Kingdom the power conferred by the foregoing provisions of this subsection shall be exercisable only with such consent as is mentioned in the proviso to that subsection.

(3) A regional council may contribute towards expenses incurred by any person in his doing (or body in their doing) anything mentioned in the said paragraph (a) or (b) if that council consider that the thing done is or would be of benefit to their area or to any part thereof.”.

(2) After the said section 90 there shall be inserted the following section—

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### “90A Schemes involving collaboration in the promotion of tourism.

After consultation with the Scottish Tourist Board, islands and district councils may prepare (or arrange for the preparation of) schemes, in which they may participate, providing for—

- (a) the forming of organisations of such persons as carry on, or have powers or duties as regards, or appear to the councils (or the person preparing the scheme) to have an interest in, activities which relate to tourism ; and
- (b) the composition and functions of such organisations.”.

#### Modifications etc. (not altering text)

**C10** The text of s. 5(1), 6, 7, 9(2), 10–13, 20, 21, 22(a)–(c) 23, 31, 36–50, 56–59, 60(1)(a)(b)(2), 66, Sch. 1 Pt. II, Sch. 2 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

#### Marginal Citations

**M9** 1973 c. 65.

### 12 Regional or islands council’s functions in affording assistance for rural bus services.

In section 34(1) of the <sup>M10</sup>Transport Act 1968 (which empowers regional, islands or district councils to afford financial assistance for rural bus services), for the words “, islands or district” there shall be substituted the words “or islands ”.

#### Modifications etc. (not altering text)

**C11** The text of s. 5(1), 6, 7, 9(2), 10–13, 20, 21, 22(a)–(c) 23, 31, 36–50, 56–59, 60(1)(a)(b)(2), 66, Sch. 1 Pt. II, Sch. 2 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

#### Marginal Citations

**M10** 1968 c. 73

### 13 Local authorities’ functions in relation to the provision of caravan sites.

- (1) In section 24 of <sup>M11</sup>the Caravan Sites and Control of Development Act 1960 (which empowers local authorities to provide sites for caravans), for subsection (8) there shall be substituted the following subsections—

“(8) In the foregoing provisions of this section “local authority” means an islands or district council but in relation to a caravan site providing accommodation for persons to whom subsection (8A) below applies includes a regional council and in relation to a caravan site the provision of which appears to a regional council or regional planning authority to be expedient for the exercise by them of any function which they have under section 40 (functions as regards long-distance routes), 48 (functions as regards country parks), 48A

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(functions as regards regional parks), 49A (functions as regards management agreements concerning the countryside), 61 or 63 (functions as regards the recreational use of waterways) of the Countryside (Scotland) Act 1967 includes that regional council or, as the case may be, regional planning authority.

(8A) This subsection applies to persons of nomadic habit of life, whatever their race or origin, but it does not apply to—

- (a) members of an organised group of travelling showmen; or
- (b) persons engaged in a travelling circus, travelling together as such.”.

(2) For subsection (2) of section 182 of the <sup>M12</sup>1973 Act (which assigns to local authorities functions under Part I of the said Act of 1960), there shall be substituted the following subsection—

“(2) Subject to section 24(8) of the Caravan Sites and Control of Development Act 1960, the functions of local authorities under Part I of that Act shall be functions of islands and district councils.”.

**Modifications etc. (not altering text)**

**C12** The text of s. 5(1), 6, 7, 9(2), 10–13, 20, 21, 22(a)–(c) 23, 31, 36–50, 56–59, 60(1)(a)(b)(2), 66, Sch. 1 Pt. II, Sch. 2 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

**Marginal Citations**

**M11** 1960 c. 62.

**M12** 1973 c. 65.

**14 Islands or district council’s duties in relation to the provision of recreational, sporting, cultural and social facilities and activities.**

(1) Subject to subsection (2) below and to section 19 of this Act, an islands or district council shall ensure that there is adequate provision of facilities for the inhabitants of their area for recreational, sporting, cultural and social activities.

(2) Without prejudice to section 63 of the Countryside (Scotland) Act 1967 (which empowers water authorities to provide recreational facilities), in relation to the provision of facilities for the recreational or sporting use of—

- (a) a reservoir (within the meaning of the <sup>M13</sup>Reservoirs Act 1975); or
- (b) an inland waterway (within the meaning of the said Act of 1967) or any part of such waterway,

which is managed and operated by a regional or islands council as water authority, no duty is imposed by subsection (1) above and no power conferred by sections 15 to 18 of this Act.

**Marginal Citations**

**M13** 1975 c. 23.

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**15 Islands or district council's powers in relation to the provision of recreational, sporting, cultural and social facilities and activities.**

- (1) The provisions of this section and of the following section are without prejudice to the duty imposed by subsection (1) of section 14 of this Act and are subject to subsection (2) of that section and to section 19 of this Act.
- (2) An islands or district council may provide or do, or arrange for the provision of or doing of, or contribute towards the expenses of providing or doing, anything necessary or expedient for the purpose of ensuring that there are available, whether inside or outside their area, such facilities for recreational, sporting, cultural or social activities as they consider appropriate.

**16 Provisions supplementary to section 15.**

- (1) Without prejudice to the generality of their powers under section 15 of this Act, an islands or district council may, for the purposes of their functions under subsection (2) of that section—
  - (a) provide entertainment of any kind;
  - (b) maintain—
    - (i) a band, orchestra or theatrical company; or
    - (ii) any other body for the promotion of a recreational, sporting, cultural or social activity;
  - (c) permit any facility provided by the council under the said section 15 to be run by another person on such conditions (including conditions as to the charges if any)—
    - (i) to be imposed on the person in respect of the rights thereby enjoyed by him; or
    - (ii) which may be imposed by the person on members of the public for admission to, or use or enjoyment of, that facility, as the authority think fit;
  - (d) use for the purposes of an entertainment provided, or a recreational, sporting, cultural or social activity provided or promoted, by them any facility (or any part thereof) provided by them under the said section 15;
  - (e) charge for admission to any facility provided by them under the said section 15 or for admission to or participation in, and for any programme supplied at or in connection with, any such entertainment or activity as is mentioned in paragraph (d) above;
  - (f) accept the right to manage and control a park devoted or partly devoted to public use from the owner of that park or from any other person entitled to transmit that right;
  - (g) enter into an agreement with the owner of any park or with any other person whereby—
    - (i) access to the park for the public is obtained or enhanced; or
    - (ii) provision is made for management and control of the park by the council;
  - (h) let as a shop, stall or restaurant a building in a park under their management and control;
  - (i) set apart some of any such park for any purpose which they consider appropriate having regard to their functions under the foregoing provisions of this section and under the said section 15;

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- (j) do anything necessary to defend a public right in any park; or
  - (k) conduct, either by themselves or in collaboration with a voluntary organisation or other person, a competition in connection with a sporting or recreational activity; and with regard to that competition—
    - (i) paragraph (e) above shall apply as it applies to any such entertainment or activity as is mentioned in paragraph (d) above; and
    - (ii) the council may provide trophies and prizes.
- (2) Without prejudice to the generality of their powers under section 15 of this Act, an islands or district council may contribute—
- (a) by way of grant or loan towards expenses incurred, or to be incurred, as regards recreational, sporting, cultural or social facilities or activities by a voluntary organisation or other person, not being a local authority, in providing or maintaining such facilities (or, as the case may be, in providing or promoting such activities) if the council have powers themselves, under the said section 15 or under the foregoing provisions of this section, to provide such facilities or activities;
  - (b) by way of grant towards expenses incurred, or to be incurred, by another local authority in providing or maintaining any such facility or in providing or promoting any such activity;
  - (c) by way of grant towards expenses incurred, or to be incurred, by a harbour authority (within the meaning of the <sup>M14</sup>Harbours Act 1964) in providing, maintaining, managing or improving a harbour which is used (or is to be used) wholly or partly for sporting or recreational purposes; or
  - (d) towards the cost of maintaining a park owned by another person and to which the public are afforded access for recreation.

#### Marginal Citations

M14 1964 c. 40.

### 17 Power of regional council to contribute financially towards the provision of recreational, sporting, cultural and social facilities and activities.

- (1) A regional council may, as regards recreational, sporting, cultural or social facilities or activities, contribute—
- (a) by way of grant towards expenses incurred, or to be incurred, by a district council; or
  - (b) by way of grant or loan towards expenses incurred, or to be incurred, by a voluntary organisation or other person, not being a local authority, in providing or maintaining such facilities (or as the case may be in providing or promoting such activities); and for the avoidance of doubt it is hereby declared that the powers under the foregoing provisions of this section in relation to cultural activities include the power to make such contributions as will promote music, theatre, opera, ballet and the other arts.
- (2) In the application of subsection (1) above to facilities which constitute a harbour, the reference in that subsection to providing or maintaining facilities shall be construed as including a reference to improving or managing them.

*Status: Point in time view as at 01/02/1991.*

*Changes to legislation: There are currently no known outstanding effects for the Local Government and Planning (Scotland) Act 1982. (See end of Document for details)*

## **18 Byelaws in relation to recreational, sporting, cultural and social activities.**

- (1) Subject to subsection (3) below, an islands or district council may make byelaws—
- (a) for the regulation and preservation of; and
  - (b) as regards the conduct of persons using,
- any such facility in the area of the council as is mentioned in section 15 and 16 of this Act.
- (2) Byelaws made under subsection (1) above may provide that—
- (a) a person contravening certain provisions of the byelaws commits an offence and is liable on summary conviction to a fine not exceeding [<sup>F7</sup>level 2 on the standard scale];
  - (b) a person required to leave the facility by a person who is an officer of, and appropriately empowered by, the council commits an offence, and is liable on summary conviction to a fine not exceeding [<sup>F7</sup>level 2 on the standard scale], if the requirement is not complied with; and
  - (c) a person who appears to be committing or to have committed an offence under the byelaws may be removed from the facility by such officer as is mentioned in paragraph (b) above or by a constable.
- (3) Subject to subsection (4) below, where byelaws made under subsection (1) above by a council would relate—
- (a) to a facility; or
  - (b) to land or premises,
- which the council neither own nor manage and control, the agreement of the owner of, and of any person having an interest in, such facility, land or premises shall be obtained before the byelaws are so made.
- (4) Where any agreement required by subsection (3) above cannot be obtained because the owner or person is unknown, cannot be found or fails to respond in any way to a request for such agreement the council may nevertheless proceed to make the byelaws if they have advertised, in a newspaper circulating in the area in which the facility or land is, or the premises are, situated, that they propose to make them and if no objection to that proposal has been forthcoming from the owner or person within one month of such advertisement.

### **Textual Amendments**

**F7** Words substituted by virtue of [Criminal Procedure \(Scotland\) Act 1975 \(c. 21, SIF 39:1\)](#), **s. 289G**

## **19 Interpretation of and savings in relation to sections 14 to 18.**

- (1) In sections 14 to 18 of this Act—
- “park” includes a pleasure ground, public open space and public walk; and
- “voluntary organisation” means any person carrying on, or proposing to carry on, an undertaking otherwise than for profit.
- (2) Nothing in this section or in sections 14 to 18 of this Act authorises a local authority to contravene any covenant or condition subject to which a gift or lease of any lands or premises has been accepted by, or made to, them unless consent to such contravention

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has been obtained from the donor, grantor, lessor or other person entitled in law to the benefit of the covenant or condition.

- (3) This section and sections 14 to 18 of this Act are without prejudice to any enactment—
- (a) relating to licensing or regulation of any matter referred to in any of those sections; or
  - (b) whereby a facility is open to the public free of charge.

## 20

In section 154 of the <sup>M15</sup>1973 Act (which transfers rights, functions and liabilities in relation to harbours etc. to regional and islands councils)—

- (a) in subsection (1), at the beginning there shall be inserted the words “Subject to subsection (3A) below, ” ; and
- (b) after subsection (3) there shall be inserted the following subsections—

“(3A) A district council may acquire by agreement any—

- (a) harbour ;
- (b) pier;
- (c) boatslip ; or
- (d) jetty,

which is situated within their district and which is used (or is to be used) wholly for sporting or recreational purposes ; and on such acquisition there shall vest in them the powers and duties of improving, maintaining and managing the harbour, pier, boatslip or, as the case may be, jetty.

(3B) Subsections (3) and (5) of section 70 of this Act shall apply to acquisition under subsection (3A) above as they apply for the purposes of that section.”.

### Marginal Citations

M15 1973 c. 65.

## 21 **Transfer of responsibility for flood warning systems from regional councils to river purification boards.**

In the <sup>M16</sup>Agriculture Act 1970—

- (a) in section 92 (which empowers regional and islands councils to provide flood warning systems)—
  - (i) in subsection (1), for the words from the beginning of the subsection to the end of sub-paragraph (i) of the proviso to it there shall be substituted the words—

“A river purification board or an islands council may provide and operate a flood warning system for their area and may, both within, and (in the case of a river purification board) outwith, that area, provide, install and maintain apparatus and carry out any engineering or building operations required for the purposes of any such system:

Provided that—



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- (i) before the exercise by a river purification board of any of the powers conferred on them by the foregoing provisions of this subsection (other than the power to maintain apparatus) that board shall consult each local authority within whose area the power is to be exercised ;
- (ia) before such exercise by a river purification board or by an islands council that board or council shall, as regards such police duties as arise under section 17(1)(a)(ii) and (iii) of the Police (Scotland) Act 1967 (general duties of guarding, patrolling and watching so as to preserve order and protect life and property) in relation to any danger of flooding, consult the chief constable of each region (or as the case may be of the islands area) within which the power is to be exercised ;” ; and
- (ii) in subsection (2), for paragraph (b) there shall be substituted the following paragraphs—
  - “(b) “local authority” means a regional or district council ; and
  - (c) “river purification board” means any such board as is established under section 135 of the Local Government (Scotland) Act 1973 (which makes provision as regards the reassignment of functions relating to the prevention of river pollution).” ;
- (b) in section 94 (which makes provision for co-operation with other persons as regards apparatus for the purposes of such systems), for the words “local authority” in each of the three places where they occur there shall be substituted the words “river purification board or islands council ” ;
- (c) sections 95 (which relates to the compulsory purchase of land required for the exercise of functions relating to the provision of such systems) and 96 (which confers powers of entry in relation to such exercise) shall cease to have effect ; and
- (d) in section 98 (which makes provision as regards the extent of so much of the Act as relates to flood warning systems in Scotland), for the words “local authority” there shall be substituted the words “river purification board ”.

#### **Modifications etc. (not altering text)**

**C13** The text of s. 5(1), 6, 7, 9(2), 10–13, 20, 21, 22(a)–(c) 23, 31, 36–50, 56–59, 60(1)(a)(b)(2), 66, Sch. 1 Pt. II, Sch. 2 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

#### **Marginal Citations**

**M16** 1970 c. 40.

## **22 Re-allocation of responsibility for the enforcement of certain provisions of the Food and Drugs (Scotland) Act 1956.**

Regional councils shall cease to have powers and duties under or by virtue of the <sup>M17</sup>Food and Drugs (Scotland) Act 1956 except that they shall retain such powers and



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duties as are mentioned in section 27 of that Act (which relates among other things to the appointment of public analysts); and accordingly in the said Act—

- (a) in section 26 (which specifies, or makes provision for the specification of, administrative authorities for the purposes of the Act)—
  - (i) in subsection (3) the words “regional councils” shall cease to have effect;
  - (ii) in subsection (4), for the words “a regional,” there shall be substituted the word “and”;
- (b) after section 27 there shall be inserted the following section—

**“27A Payment by district councils for services of public analysts.**

- (1) The fee payable to a public analyst in respect of his analysis of samples submitted to him by a sampling officer of a district council which appointed the analyst:  
Provided that the foregoing provisions of this subsection apply only where the analyst is the employee of the council which appointed him.
- (2) A council, before fixing a fee under subsection (1) above, shall—
  - (a) work out what proportion, approximately, of the total cost to them of employing (and providing working facilities and equipment for) the public analyst is attributable to the sampling officer, and shall propose such fee as would recover that proportion from the district council; and
  - (b) consult with the district council, with a view to securing their agreement to the fee proposed.
- (3) Where the district council will not agree a fee proposed under subsection (2) above, either council may apply to the Secretary of State for the appointment under this subsection of an arbiter.
- (4) The decree arbitral of an arbiter appointed under subsection (3) above shall be final and conclusive as regards the fee to be fixed under subsection (1) above; and the expenses of the arbitration shall be borne jointly by the parties.”; and
- (c) in the proviso to subsection (3) of section 29 (the which proviso empowers an analyst to demand a fee in advance from certain persons), after the word “may” where it first occurs, there shall be inserted the words “, except in a case where the fee falls to be fixed under section 27A of this Act, ”

**Modifications etc. (not altering text)**

**C14** The text of s. 5(1), 6, 7, 9(2), 10–13, 20, 21, 22(a)–(c) 23, 31, 36–50, 56–59, 60(1)(a)(b)(2), 66, Sch. 1 Pt. II, Sch. 2 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

**Marginal Citations**

**M17** 1956 c.30.

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## 23 General powers of local authority to assist community council.

In section 55 of the <sup>M18</sup>1973 Act (which empowers a regional, islands or district council to contribute towards the expenses etc. of a community council in their area), the word “Regional,” shall cease to have effect.

### Modifications etc. (not altering text)

**C15** The text of s. 5(1), 6, 7, 9(2), 10–13, 20, 21, 22(a)–(c) 23, 31, 36–50, 56–59, 60(1)(a)(b)(2), 66, Sch. 1 Pt. II, Sch. 2 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

### Marginal Citations

**M18** 1973 c. 65.

## 24 Islands or district council’s functions in relation to the provision of gardening assistance for the disabled and the elderly.

- (1) An islands or district council may provide, or arrange for the provision of, gardening assistance for persons who require such assistance by reason of physical disability, chronic illness or old age.
- (2) Section [<sup>F8</sup>211(1)(b) of the Housing (Scotland) Act 1987] (which requires a local authority to charge for services provided by them under the terms of the tenancy of a house) shall not apply in relation to assistance provided under subsection (1) above; but the local authority shall recover from any person availing himself of that assistance such charges as appear to them to be reasonable (unless the person’s circumstances are such as to render any charge inappropriate).
- (3) Without prejudice to the validity of any instruction which may be given, under section 3(1)(b) of the <sup>M19</sup>Community Service by Offenders (Scotland) Act 1978, by a local authority officer in fulfilling any requirement imposed on the local authority by a community service order under that Act, a local authority shall not provide, or arrange for the provision of, such assistance as is mentioned in subsection (1) above except in accordance with, and in so far as empowered by, the foregoing provisions of this section.

### Textual Amendments

**F8** Words substituted by [Housing \(Scotland\) Act 1987 \(c. 26, SIF 61\)](#), ss. 335, 339(2), [Sch. 23 para. 27](#)

### Marginal Citations

**M19** 1978 c. 49.

## 25 Islands or district council’s functions in relation to street cleansing.

- [<sup>F9</sup>(1) It shall be the duty of each islands and district council to undertake the cleansing of the [<sup>F10</sup>roads] in their area; and no regional council shall undertake such cleansing (other than as an agent of a district council).]
- (2) An islands or district council may, with the consent of each person who has an interest in or is the occupier of any relevant land in their area, arrange for the cleansing of the

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land and may enter into an agreement with any such person for the payment by him of charges in respect of the cleansing.

[<sup>F11</sup>(3) In subsections (1) and (2) above “cleansing” means such cleansing as appears to the islands, or as the case may be district, council to be necessary in the interests of public health or safety or of the amenities of their area but does not include operations for the removal of snow or ice; in subsection (2) above “relevant land” means any land, in the open air, to which members of the public have access and which is not comprehended in a [<sup>F12</sup>road]; and in subsection (1) above and in the foregoing provisions of this subsection [<sup>F13</sup> “road” means any public road other than a trunk road or special road (“public road”, “trunk road” and “special road” having the same meaning as in the Roads (Scotland) Act 1984).]]

[<sup>F11</sup>(3) In subsection (2) above “cleansing” means such cleansing as appears to the islands or as the case may be district council to be necessary in the interests of public health or safety or of the amenities of their area but does not include operations for the removal of snow or ice and “relevant land” means any land, in the open air, to which members of the public have access and which is not comprehended in a public road within the meaning of the Roads (Scotland) Act 1984.]

#### Textual Amendments

**F9** S. 25(1) repealed (*prosp.*) by Environmental Protection Act 1990 (c. 43, SIF 46:4), s. 162(2), **Sch. 16 Pt. IV**

**F10** Word substituted by Roads (Scotland) Act 1984 (c. 54, SIF 108), s. 156(1), **Sch. 9 para. 86(2)(a)**

**F11** S. 25(3) beginning “In subsection (2)” substituted (*prosp.*) for s. 25(3) beginning “In subsections (1) and (2)” by Environmental Protection Act 1990 (c. 43, SIF 46:4), s. 162(1), 164(3) Sch. 15 para. 20

**F12** Word substituted by Roads (Scotland) Act 1984 (c. 54, SIF 108), s. 156(1), **Sch. 9 para. 87(2)(b)(i)**

**F13** Definition substituted by Roads (Scotland) Act 1984 (c. 54, SIF 108), s. 156(1), **Sch. 9 para. 86(2)(b)(ii)**

#### Modifications etc. (not altering text)

**C16** S. 25(3) applied by Local Government Act 1988 (c. 9, SIF 81:1, 2), s. 2(1)(g), Sch. 1 para. 3

## 26 Islands or district council’s functions in relation to the provision of public conveniences.

- (1) An islands or district council may provide, equip and maintain fixed or moveable public conveniences in such places as appear to them to be suitable and may make such reasonable charges as they may determine for the use of such conveniences.
- (2) In subsection (1) above “conveniences” means water-closets, or urinals, and washing facilities for use in connection therewith.

## 27 Islands or district council’s functions in relation to the provision of a market.

- (1) An islands or district council may establish and hold a market, may provide market buildings and may—
  - (a) provide in any such market or market buildings—
    - (i) stalls or stands;
    - (ii) warehouses, offices, shops or stores; and

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- (iii) premises for supplying food and refreshments (including alcoholic liquor);
  - (b) impose—
    - (i) such conditions for the use of the market or market buildings by stallholders or other persons as the council consider appropriate; and
    - (ii) such charges in relation to such use or for entrance to the market or market buildings as will be sufficient to meet the expenses of the authority in carrying out their functions under this section;
  - (c) make byelaws regulating the market, the activities of persons selling goods therein and the behaviour of the public while therein; and
  - (d) do such other things as they consider expedient for the purposes of the market.
- (2) Byelaws made under subsection (1)(c) above may provide that a person contravening certain provisions of the byelaws commits an offence and is liable, on summary conviction, to a fine not exceeding [<sup>F14</sup>level 2 on the standard scale].
- (3) An islands or district council may—
- (a) discontinue the whole, or any part, of a market established under subsection (1) above by them; and
  - (b) grant exemption from a condition imposed under subsection (1)(b)(i) above, charge imposed under subsection (1)(b)(ii) above or byelaw made under subsection (1)(c) above.
- (4) Without prejudice to section 83(3A) of the <sup>M20</sup>1973 Act, nothing in the foregoing provisions of this section affects any existing right of a local authority to establish or regulate a market or to fix a market place.
- (5) In the foregoing provisions of this section the expression “market” shall be construed generally and not as limited to a place where a market is held by virtue of a grant from the Crown or of prescription or under statutory authority.

#### Textual Amendments

**F14** Words substituted by virtue of [Criminal Procedure \(Scotland\) Act 1975 \(c. 21, SIF 39:1\)](#), **s. 289G**

#### Marginal Citations

**M20** [1973 c. 65](#).

## 28 Islands or district council’s functions in relation to the provision of clocks.

An islands or district council—

- (a) may provide a clock for public purposes and may maintain, illuminate or remove such clock; and
- (b) where a clock is not owned by the council but is open to public view, may for the purposes of securing its maintenance or illumination enter into an agreement with its owner.

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## **29 Power to repeal local statutory provisions which are superseded by provisions of this Act.**

- (1) The Secretary of State may by order made by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament repeal or amend, on such date as may be appointed in the order, any local statutory provision in so far as that provision appears to him to be inconsistent with, or to have become unnecessary or to require alteration in consequence of, any provision of this Act.
- (2) Different dates may be appointed under subsection (1) above in respect of different local statutory provisions; and any such date may, where the local statutory provision is one to which section 225(6) of the 1973 Act (which prospectively repeals certain such local statutory provisions) applies, be earlier than that on which the local statutory provision would cease, under the said section 225(6), to have effect.

## **30 Power of islands and district councils to provide and maintain roadside seats.**

- (1) Without prejudice to any existing power which they have in that regard, [<sup>F15</sup>an islands council or, with the consent of the roads authority, a district council] may, for the use of the public, provide and maintain seats on any footway in their area; and they may maintain any such seats donated to them.
- [<sup>F16</sup>(2) In subsection (1) above, “footway” and “roads authority” have the same meanings as in the Roads (Scotland) Act 1984.]

### **Textual Amendments**

**F15** Words substituted by Roads (Scotland) Act 1984 (c. 54, SIF 108), s. 156(1), Sch. 9 para. 86(3)

**F16** S. 30(2) substituted by Roads (Scotland) Act 1984 (c. 54, SIF 108), s. 156(1), Sch. 9 para. 86(3)

## **31 Cessation of regional, council’s functions as regards war memorials.**

In section 170 of the 1973 Act (which designates regional, islands and district councils as local authorities for the purposes of the <sup>M21</sup>War Memorials (Local Authorities’ Powers) Act 1923) for the words “local authority within the meaning of this Act” there shall be substituted the words “islands or district council”.

### **Modifications etc. (not altering text)**

**C17** The text of s. 5(1), 6, 7, 9(2), 10–13, 20, 21, 22(a)–(c) 23, 31, 36–50, 56–59, 60(1)(a)(b)(2), 66, Sch. 1 Pt. II, Sch. 2 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

### **Marginal Citations**

**M21** 1923 c 18.

## **32 Delegation of functions by sub-committees of local authorities.**

For section 56(2) of the <sup>M22</sup>1973 Act (which permits a committee of a local authority to arrange for a sub-committee or an officer of the authority to discharge functions of the authority) there shall be substituted the following subsection—

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- “(2) Where by virtue of this section any function of a local authority may be discharged by any committee or sub-committee of theirs, then, unless the local authority otherwise direct—
- (a) the committee may arrange for the discharge of any of those functions by a sub-committee or an officer of the authority ; and
  - (b) the sub-committee, whether assigned the discharge of functions by the authority or by a committee, may arrange for the discharge of any such functions by an officer of the authority.”.

#### Marginal Citations

M22 1973 c. 65.

### 33 Consequential transfer of officers of local authorities.

- (1) Where, in the period immediately before the coming into force of a provision of this Act, an officer of a local authority (that authority being in this section referred to as the first local authority) is wholly or mainly employed in duties pertaining, irrespective of how his office or employment is formally described, to a specific function of the authority but under or by virtue of that provision either—
  - (a) the function ceases to be a function of the first local authority and becomes instead one of a different local authority (in this section referred to as the second local authority); or
  - (b) the powers and duties of the two local authorities as regards the function are re-allocated so that the second local authority come to have the principal responsibility (within their own area) for that function,

the officer shall be transferred into the employment of the second local authority: Provided that, as regards any transfer in respect of which the first local authority is a regional council and the second local authority might be any of the district councils in the region, the authority which is to be the second local authority shall be determined jointly by the regional council and district councils; but they shall take into consideration any preference expressed by the officer concerned.
- (2) The Secretary of State shall under this subsection issue a code of recommended practice as to transfers under subsection (1) above; and a local authority shall, as regards each such transfer, conform to that code unless, or in so far as, the officer, they and the first (or as the case may be the second) local authority all agree otherwise.
- (3) Before issuing a code under subsection (2) above, the Secretary of State shall consult—
  - (a) any association of local authorities which appears to him to represent the interests of local authorities in Scotland; and
  - (b) any body which appears to him both to represent the interests of officers of local authorities in Scotland and to be a body with whom consultation is desirable.
- (4) A dispute between or among local authorities as regards when or whether a transfer falls to take place under subsection (1) above, as to which of two or more district councils are to be the second local authority in relation to any such transfer, or as to any other matter concerning any such transfer, shall be resolved by arbitration under this subsection.

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- (5) Except in so far as is manifest from the foregoing provisions of this section, nothing in those provisions or in any code issued under subsection (2) above shall affect any legal right or entitlement of an officer of a local authority.
- (6) In the foregoing provisions of this section “local authority” includes a river purification board established under section 135 of the <sup>M23</sup>1973 Act.

#### Marginal Citations

M23 1973 c. 65.

### 34 Consequential transfer of property of local authorities.

- (1) Where under or by virtue of a provision of this Act—
- (a) a function of a local authority (that authority being in this section referred to as the first local authority) ceases to be a function of that authority and becomes instead one of a different local authority (in this section referred to as the second local authority); or
  - (b) the powers and duties of the two local authorities are re-allocated so that the second local authority come to have the principal responsibility (within their own area) for that function,

then, subject to any such agreement as is provided for in subsection (2) below and to subsection (6) below—

- (i) any property (not being property held in trust) of the first local authority which is wholly or mainly used, or held, by that authority in relation to the discharge of that function (whether or not it is leased by them to a third party);
- (ii) any property held in trust by (or by councillors or officers of) the first local authority for purposes wholly or mainly related to that function; and
- (iii) any right to nominate trustees which is enjoyed by the first local authority in respect of property held in trust (other than such property as is mentioned in sub-paragraph (ii) above) and which is wholly or mainly attributable to their having the function, or the principal responsibility therefor,

shall forthwith transfer to, and shall vest in, the second local authority or (in the case of property held in trust by councillors or officers of the first local authority) to and in councillors, or officers, nominated by the second local authority:

Provided that, as regards any transfer in respect of which the first local authority is a regional council and the second local authority might be any of the district councils in the region, the authority which is to be the second local authority shall be determined jointly by the regional council and district councils; and any agreement such as is mentioned in the foregoing provisions of this subsection shall, where it relates to a transfer such as is mentioned in the foregoing provisions of this proviso, or where such transfer would take place but for the agreement, require to be between the regional council and all the district councils in the region:

Provided also that in the case of the property mentioned in sub-paragraph (i) above transfer and vesting shall be without prejudice to the conditions of any such lease as is referred to in that sub-paragraph and in the case of the property mentioned in sub-paragraph (ii) above shall be subject to the trust referred to in the said sub-paragraph (ii).



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- (2) Subject to the first proviso to subsection (1) above, if or in so far as the first and the second local authority both agree that—
- (a) property shall not be transferred by sub-paragraph (i) of that subsection; or
  - (b) a right shall not be transferred by sub-paragraph (iii) thereof,
- that subsection shall have no effect as regards the property, or as the case may be the right; but even where there is such agreement as is mentioned in paragraph (a) above, any use or holding by the first local authority of the property to which the agreement relates shall no longer be in relation to such discharge as is mentioned in the said sub-paragraph (i).
- (3) The Secretary of State may under this subsection issue a code of recommended practice as to transfers under subsection (1) above; and a local authority shall, as regards each such transfer, conform to that code unless, or in so far as, the first local authority and the second local authority agree otherwise.
- (4) Before issuing a code under subsection (2) above, the Secretary of State shall consult any association of local authorities which appears to him to represent the interests of local authorities in Scotland.
- (5) A dispute between or among local authorities as regards whether a transfer falls to take place under subsection (1) above, as to which of two or more district councils are to be the second local authority in relation to any such transfer, or as to any other matter concerning any such transfer shall be resolved by arbitration under this subsection.
- (6) In subsections (1) and (2) above “property” means any property, heritable or moveable, which does not constitute or form part of a harbour and it includes all interests, rights and liabilities in or relating to such property; in the foregoing provisions of this subsection “harbour” means anything mentioned in paragraphs (a) to (d) of section 154(3A) of the <sup>M24</sup>1973 Act; and in the foregoing provisions of this section “local authority” includes a river purification board established under section 135 of the 1973 Act.

#### **Marginal Citations**

**M24** 1973 c. 65.

### **35 Arbitration under section 33(4) or 34(5).**

In any arbitration under section 33(4) or 34(5) of this Act—

- (a) a person agreed upon between the parties, or in default of such agreement appointed on the application of either (or any) of the parties by the Secretary of State, shall be arbiter;
- (b) the arbiter shall, in so far as is practicable, have regard to the code of recommended practice issued under section 33(2), or as the case may be 34(3), of this Act;
- (c) the decree arbitral shall be final and conclusive; and
- (d) the expenses shall be borne jointly by the parties.



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## PART III

### PLANNING

#### 36 Secretary of State’s discretion as regards public examination of structure plans.

In section 7 of the <sup>M25</sup>1972 Act (which relates to the approval or rejection of structure plans by the Secretary of State), for paragraph (b) of subsection (3) there shall be substituted the following paragraph—

“(b) if, but only if, it appears to him that an examination in public should be held of any matter affecting his consideration of the plan, cause a person or persons, appointed by him for the purpose, to hold such an examination.”.

#### Modifications etc. (not altering text)

**C18** The text of s. 5(1), 6, 7, 9(2), 10–13, 20, 21, 22(a)–(c) 23, 31, 36–50, 56–59, 60(1)(a)(b)(2), 66, Sch. 1 Pt. II, Sch. 2 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

#### Marginal Citations

**M25** 1972 c. 52.

#### 37 Proposals for alterations to structure plans.

In section 8 of the <sup>M26</sup>1972 Act (which relates to the submission of proposals for alterations to structure plans)—

- (a) in subsection (1)—
  - (i) after the words “that plan” there shall be inserted the words “(which may include proposals for repeal and replacement)” ; and
  - (ii) at the end there shall be added the words “and may provide for the repeal of two or more structure plans and their replacement with one structure plan.” ;
- (b) in subsection (2), after the words “sections 6” there shall be inserted the word “(2)” ; and
- (c) after subsection (2) there shall be added the following subsections—
  - “(3) Before a planning authority submit proposals under this section they shall give such publicity (if any) to, and undertake such consultation (if any) about, the said proposals as they think fit, and shall consider any representations timeously made to them about such proposals.
  - (4) The planning authority shall send with any proposals submitted by them under this section a statement of the steps they have taken to comply with subsection (3) above and, if they have not publicised or have not consulted under that subsection, the statement shall explain the absence of such publicity or as the case may be consultation.
  - (5) If the Secretary of State is not satisfied with the steps taken by the planning authority to comply with subsection (3) above, or as the case may be if he is not satisfied with the terms of any explanation provided

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by them under subsection (4) above, he may return the proposals to the authority, and may direct them—

- (a) to take such steps or further steps as he may specify ; and
- (b) after they have done so, to resubmit the proposals with such modification, if any, as they consider appropriate.

(6) Where, under subsection (5) above, the Secretary of State returns proposals, he shall inform the authority of his reasons for doing so and, if any person has made to him an objection to the proposals, shall also inform that person that he has returned the proposals.

(7) A planning authority who are given directions under subsection (5) of this section shall forthwith withdraw the copies which have, under section 6(2) of this Act (as applied by subsection (2) above) been made available for inspection.

(8) The said section 6(2) and subsections (3) to (7) above shall apply, in relation to proposals resubmitted in accordance with directions given under subsection (5) above, as they apply in relation to proposals submitted under subsection (1) above.”.

**Modifications etc. (not altering text)**

**C19** The text of s. 5(1), 6, 7, 9(2), 10–13, 20, 21, 22(a)–(c) 23, 31, 36–50, 56–59, 60(1)(a)(b)(2), 66, Sch. 1 Pt. II, Sch. 2 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

**Marginal Citations**

**M26** 1972 c. 52.

**38 Inquiries with respect to local plans.**

In subsection (1) of section 11 of the <sup>M27</sup>1972 Act (which relates, among other things, to inquiries with respect to local plans)—

- (a) after the word “shall”, where it occurs for the first time, there shall be inserted the word “if” ; and
- (b) after the word “Act”, where it occurs for the first time, there shall be inserted the words “an objector so requires,”.

**Modifications etc. (not altering text)**

**C20** The text of s. 5(1), 6, 7, 9(2), 10–13, 20, 21, 22(a)–(c) 23, 31, 36–50, 56–59, 60(1)(a)(b)(2), 66, Sch. 1 Pt. II, Sch. 2 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

**Marginal Citations**

**M27** 1972 c. 52.

*Status: Point in time view as at 01/02/1991.*

*Changes to legislation: There are currently no known outstanding effects for the Local Government and Planning (Scotland) Act 1982. (See end of Document for details)*

### 39 Modification of local plans.

In subsection (1) of section 12 of the 1972 Act (which relates to the adoption and approval of local plans), for the words “any such objections or of any matters arising out of such objections” there shall be substituted the words—

“—

- (a) any such objections (whether or not they have been the subject of a local inquiry or other hearing)
- (b) any matters arising out of such objections ; or
- (c) any drafting or technical matters, if these are of a minor nature.”.

#### **Modifications etc. (not altering text)**

**C21** The text of s. 5(1), 6, 7, 9(2), 10–13, 20, 21, 22(a)–(c) 23, 31, 36–50, 56–59, 60(1)(a)(b)(2), 66, Sch. 1 Pt. II, Sch. 2 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

### 40 Alteration of local plans.

In section 13 of the 1972 Act (which relates to the alteration of local plans)—

- (a) for subsection (1) there shall be substituted the following subsection—

“(1) A planning authority shall keep under review any local plan adopted by them, or approved by the Secretary of State, and may at any time make proposals for the alteration, repeal or replacement of such plan; and any such proposals may include proposals for the repeal of two or more local plans and their replacement with one local plan: Provided that where a local plan has been approved by the Secretary of State they shall not make such proposals in relation to that plan without his consent.” ;

- (b) in subsection (3), at the beginning there shall be inserted the words “Subject to subsection (4) below” ; and
- (c) at the end there shall be added the following subsections—

“(4) If a planning authority do not consider it appropriate to take the steps required by section 10(1) of this Act in relation to proposals made by them under subsection (1) of this section for alteration of a local plan, they may instead include, with the copies of those proposals made available for inspection and with the copy sent to the Secretary of State under section 10(2) of this Act, a statement of their reasons for not taking such steps.

- (5) In carrying out their duty under subsection (1) above the authority shall have regard to any structure plan approved for the area by the Secretary of State.”.

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#### **Modifications etc. (not altering text)**

**C22** The text of s. 5(1), 6, 7, 9(2), 10–13, 20, 21, 22(a)–(c) 23, 31, 36–50, 56–59, 60(1)(a)(b)(2), 66, Sch. 1 Pt. II, Sch. 2 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

#### **41 Publication of notices of planning applications.**

For section 23 of the <sup>M28</sup>1972 Act (which relates to the publication of notices of planning applications) there shall be substituted the following section—

##### **“23 Publication of notices of planning applications**

- (1) Subject to subsection (2) below, a development order may provide, either in relation to applications generally or in relation to applications of a class or classes prescribed in the order, that—
  - (a) any such application shall have been notified to such persons or classes of person, and in such manner, as may be so prescribed ;
  - (b) any such application shall have been advertised, either in a local newspaper or on the land to which the application relates, or both, in such a manner and for such a period or on such a number of occasions as may be so prescribed ;
  - (c) any newspaper advertisement required by virtue of paragraph (b) above shall be placed by the planning authority to whom the application is made ;
  - (d) the planning authority may recover from the applicant the cost incurred by them in arranging any such advertisement ;
  - (e) any such application shall be accompanied by such certificates as to compliance with the requirements of provisions made under paragraphs (a) and (b) above as may be so prescribed ;
  - (f) the applicant shall furnish, at such time and to such persons as may be so prescribed, such information with respect to the application as may be so prescribed ;
  - (g) no such application shall be entertained unless such further conditions as to payment as may be so prescribed have been complied with ;
  - (h) no such application shall be determined until after the expiry of any period which may be so prescribed.
- (2) The applications mentioned in subsection (1) above are—
  - (a) applications for planning permission;
  - (b) applications for an approval required by a development order ; or
  - (c) applications for any consent, agreement or approval required by a condition imposed on a grant of planning permission.
- (3) If any person knowingly or recklessly—
  - (a) issues a notification ; or
  - (b) makes advertisement (other than newspaper advertisement) ; or
  - (c) supplies a certificate,

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which purports to comply with provisions made under subsection (1) above but which contains a statement which is false or misleading in a material particular, he shall be guilty of an offence, and liable on summary conviction to a fine not exceeding £200.”.

**Modifications etc. (not altering text)**

**C23** The text of s. 5(1), 6, 7, 9(2), 10–13, 20, 21, 22(a)–(c) 23, 31, 36–50, 56–59, 60(1)(a)(b)(2), 66, Sch. 1 Pt. II, Sch. 2 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

**Marginal Citations**

**M28** 1972 c. 52.

**42 Publication of notices of planning applications.**

After section 54B of the <sup>M29</sup>1972 Act (which is inserted in that Act by paragraph 16 of Schedule 2 to this Act) there shall be inserted the following section—

**“54C Intimation of notices etc. affecting listed buildings.**

- (1) Subject to subsection (2) below, where a local authority—
- (a) have, under or by virtue of any enactment, served a notice requiring any person to show cause why a listed building should not conform to the building regulations ; or
  - (b) have, under or by virtue of any enactment, served a notice or made an order requiring—
    - (i) the demolition of such a building ; or
    - (ii) the carrying out of works affecting such a building; or
  - (c) propose (whether under or by virtue of any enactment or otherwise) to carry out emergency works or demolitions affecting such a building,
- they shall forthwith give written intimation of the notice, order, or proposal, as the case may be, to the planning authority:  
Provided that where the building is owned, leased or occupied by the planning authority, the local authority (whether or not they are the planning authority) shall also give such intimation to the Secretary of State.
- (2) Where the safety of the public requires that any demolition or works be carried out without such delay as would result from compliance with the provisions of subsection (1) above, the intimation (which may, in such a case, initially be oral) shall be given as long before the commencement of the demolition or works as is consistent with that requirement.”.

**Modifications etc. (not altering text)**

**C24** The text of s. 5(1), 6, 7, 9(2), 10–13, 20, 21, 22(a)–(c) 23, 31, 36–50, 56–59, 60(1)(a)(b)(2), 66, Sch. 1 Pt. II, Sch. 2 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

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#### Marginal Citations

M29 1972 c. 52.

#### 43 Power of regional planning authority to take enforcement action.

After section 84 of the 1972 Act there shall be inserted the following section—

##### “84A Power of regional planning authority to take enforcement action.

- (1) If a regional planning authority are of the opinion that a structure plan prepared by them and approved by the Secretary of State is materially prejudiced by a breach of planning control they may, after consultation with any district planning authority in whose district the breach has taken place, and subject to subsection (2) below, serve an enforcement notice under this subsection requiring the breach to be remedied.
- (2) Where a regional planning authority serve a notice under subsection (1) above the provisions of sections 84 (except subsection (1)), 85, 86, 87, 88, 89, 89A, 166, 265(1)(c) and 265(2A) of this Act shall apply, with any necessary modifications, in relation to the regional planning authority and a notice under subsection (1) above as they apply in relation to a district planning authority and a notice under subsection (1) of the said section 84.”.

#### Modifications etc. (not altering text)

C25 The text of s. 5(1), 6, 7, 9(2), 10–13, 20, 21, 22(a)–(c) 23, 31, 36–50, 56–59, 60(1)(a)(b)(2), 66, Sch. 1 Pt. II, Sch. 2 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

#### 44 Register of waste land, enforcement and stop notices.

After section 87 of the <sup>M30</sup>1972 Act there shall be inserted the following section—

##### “87A Register of waste land, enforcement and stop notices.

- (1) Every general and district planning authority shall, with respect to waste land notices, enforcement notices and stop notices which have been served in relation to land in their district, keep a register—
  - (a) in such manner ; and
  - (b) containing such information,
 as may be prescribed ; and there may also be prescribed circumstances in which an entry in the register shall be deleted.
- (2) Every register kept under this section shall be available for inspection by the public at all reasonable hours.”.

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*Changes to legislation: There are currently no known outstanding effects for the Local Government and Planning (Scotland) Act 1982. (See end of Document for details)*

**Modifications etc. (not altering text)**

**C26** The text of s. 5(1), 6, 7, 9(2), 10–13, 20, 21, 22(a)–(c) 23, 31, 36–50, 56–59, 60(1)(a)(b)(2), 66, Sch. 1 Pt. II, Sch. 2 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

**Marginal Citations**

**M30** 1972 c. 52

**45 Power of local authorities to recover cost of various orders.**

After section 210 of the 1972 Act there shall be inserted the following section—

**“210A Recovery of costs of making orders relating to roads, paths etc.**

- (1) Where, after the coming into force of this section, a person requests a local authority to make an order to which this subsection applies, the local authority may require him, as a condition of their compliance with the request, to make such provision as they consider reasonable as regards any costs to be incurred by them in so complying.
- (2) The orders to which subsection (1) above applies are orders under any of the following enactments—
  - (a) section 98A of this Act (orders authorising the stopping up or diversion of certain highways) ;
  - (b) section 199 of this Act (orders authorising the stopping up or diversion of footpaths or bridleways) ;
  - (c) section 200 of this Act (orders authorising the stopping up or diversion of certain highways crossing or entering the route of a proposed new highway) ;
  - (d) section 201 of this Act (orders extinguishing the right to use vehicles on a highway) ;
  - (e) section 12 of the Roads (Scotland) Act 1970 (orders stopping up an unnecessary road or one dangerous to the public) ;
  - (f) section 34 of the Countryside (Scotland) Act 1967 (orders as regards the closure of public paths) ; and (g) section 35 of the said Act of 1967 (orders as regards the diversion of public paths).”.

**Modifications etc. (not altering text)**

**C27** The text of s. 5(1), 6, 7, 9(2), 10–13, 20, 21, 22(a)–(c) 23, 31, 36–50, 56–59, 60(1)(a)(b)(2), 66, Sch. 1 Pt. II, Sch. 2 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

**46 Power of planning authorities to vary planning permission.**

After section 31 of the 1972 Act there shall be inserted the following section—

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### **“31A Power of planning authorities to vary planning permission.**

Notwithstanding any other provision of this Part of this Act, a planning authority may, at the request of the grantee or of a person acting with his consent, vary any planning permission granted by them, if it appears to them that the variation sought is not material.”.

#### **Modifications etc. (not altering text)**

**C28** The text of s. 5(1), 6, 7, 9(2), 10–13, 20, 21, 22(a)–(c) 23, 31, 36–50, 56–59, 60(1)(a)(b)(2), 66, Sch. 1 Pt. II, Sch. 2 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

### **47 Restriction on further appeal following decision of Secretary of State on appeal under section 63A, 85 or 93 of the 1972 Act.**

In subsection (3) of section 231 of the 1972 Act (which, among other things, relates to appeals against certain decisions of the Secretary of State)—

- (a) after paragraph (e) there shall be inserted the following paragraph—
  - “(ee) any decision of the Secretary of State on an appeal to him under section 63A of this Act against a waste land notice ;” ;
- (b) in paragraph (f), the words “(1)(a), (f) or (g)” shall cease to have effect ; and
- (c) for paragraph (h) there shall be substituted the following paragraph—
  - “(h) any decision of the Secretary of State on an appeal to him under section 93 of this Act against a listed building enforcement notice ;”.

#### **Modifications etc. (not altering text)**

**C29** The text of s. 5(1), 6, 7, 9(2), 10–13, 20, 21, 22(a)–(c) 23, 31, 36–50, 56–59, 60(1)(a)(b)(2), 66, Sch. 1 Pt. II, Sch. 2 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

### **48 Further amendments of the 1972 Act.**

The 1972 Act shall have effect subject to the amendments specified in Schedule 2 to this Act.

#### **Modifications etc. (not altering text)**

**C30** The text of s. 5(1), 6, 7, 9(2), 10–13, 20, 21, 22(a)–(c) 23, 31, 36–50, 56–59, 60(1)(a)(b)(2), 66, Sch. 1 Pt. II, Sch. 2 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.



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## PART IV

### MISCELLANEOUS AND SUPPLEMENTARY

#### *Miscellaneous*

#### **49 Power of local authority to make an advance for the acquisition of land or erection of buildings.**

In section 7 of the <sup>M31</sup>Local Government (Development and Finance) (Scotland) Act 1964 (which empowers a local authority to make an advance for the erection of a building on land sold, feued or let by them)—

(a) for subsection (1) there shall be substituted the following subsection—

“(1) Where a local authority are satisfied that it would be for the benefit or improvement of their area, they may, subject to the provisions of this section, advance money to any person for the purpose of enabling him either—

(a) to acquire land ; or

(b) to erect any building or carry out any work on land.”; and

(b) for subsection (3) there shall be substituted the following subsection—

“(3) The amount of the principal of an advance shall not exceed nine-tenths of—

(a) where the advance is made under subsection (1)(a) above, the value of the land ; or

(b) where the advance is made under subsection (1)(b) above, the value which it is estimated will be the value of the land on the completion of the building, or as the case may be works,

in respect of which the advance is made.”.

#### **Modifications etc. (not altering text)**

**C31** The text of s. 5(1), 6, 7, 9(2), 10–13, 20, 21, 22(a)–(c) 23, 31, 36–50, 56–59, 60(1)(a)(b)(2), 66, Sch. 1 Pt. II, Sch. 2 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

#### **Marginal Citations**

**M31** 1964 c. 67

#### **50 Power of local authority incur expenditure for certain purposes not otherwise authorised.**

In section 83 of the 1973 Act (which gives local authorities power to incur expenditure for certain purposes not otherwise authorised, but limits the expenditure which it authorises)—

(a) the following subsections shall be inserted after subsection (2)—

“(2A) Without prejudice to the generality of subsection (1) above, the power of a local authority to incur expenditure under that subsection includes

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power to incur expenditure in giving financial assistance to persons carrying on commercial or industrial undertakings.

- (2B) Financial assistance under subsection (2A) above may be given by lending or guarantee, or by making grants.” ;
- (b) the following subsections shall be inserted after subsection (4)—

“(4A) For the purpose of determining whether a local authority have exceeded the limit set out in subsection (4) above, their expenditure in any financial year under this section shall be taken to be the difference between their gross expenditure under this section for that year and the aggregate of the amounts specified in subsection (4B) below.

(4B) The amounts mentioned in subsection (4A) above are—

- (a) any grant paid to the local authority for that year under the Local Government Grants (Social Need) Act 1969, in so far as the grant is in respect of an activity in relation to which the authority have incurred expenditure in that year under this section ;
  - (b) the amount of any repayment in that year of the principal of a loan for the purpose of financing expenditure under this section in any year ;
  - (c) so much of any amount raised by public subscription as is spent in that year for a purpose for which the authority are authorised by this section to incur expenditure ;
  - (d) any grant received by the authority for that year out of the European Regional Development Fund or the Social Fund of the European Economic Community, in so far as the grant is in respect of an activity in relation to which the authority incurred expenditure in that year under this section ;
  - (e) the amount of any repayment in that year of a loan under this section made by the authority in any year ; and
  - (f) the amount of any expenditure—
    - (i) which is incurred by the authority in that year in circumstances specified in an order made by the Secretary of State ; or
    - (ii) which is incurred by the authority in that year and is of a description so specified ; or
    - (iii) which is defrayed by any grant or other payment to the authority which is made in or in respect of that year and is of a description so specified.” ; and
- (c) in subsection (5), for the words “subsection (4) above” there shall be substituted the words “this section”.

**Modifications etc. (not altering text)**

**C32** The text of s. 5(1), 6, 7, 9(2), 10–13, 20, 21, 22(a)–(c) 23, 31, 36–50, 56–59, 60(1)(a)(b)(2), 66, Sch. 1 Pt. II, Sch. 2 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

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51— ..... F17  
55.

**Textual Amendments**

F17 Ss. 51–55. repealed by [Housing \(Scotland\) Act 1987 \(c. 26, SIF 61\)](#), ss. 335, 339(3), [Sch. 24](#)

**56 Maintenance of sewage treatment works and waterworks.**

In section 20 of the <sup>M32</sup>Local Government, Planning and Land Act 1980 (which relates to the interpretation of provisions of that Act concerning direct labour organisations), after subsection (2) there shall be inserted the following subsection—

“(2A) Notwithstanding anything in subsection (1) above, and without prejudice to subsection (2) above, in the application of this Act to Scotland “construction or maintenance work” in relation to—

- (a) sewage treatment works (within the meaning of the Sewerage (Scotland) Act 1968) ; or
- (b) waterworks (within the meaning of the Water (Scotland) Act 1980),

does not include works of maintenance (within the meaning of the Local Authorities (Goods and Services) Act 1970) by a person employed wholly or mainly in connection with such treatment works or as the case may be waterworks.”.

**Modifications etc. (not altering text)**

C33 The text of s. 5(1), 6, 7, 9(2), 10–13, 20, 21, 22(a)–(c) 23, 31, 36–50, 56–59, 60(1)(a)(b)(2), 66, Sch. 1 Pt. II, Sch. 2 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

**Marginal Citations**

M32 1980 c. 65.

**57 Liability of water authorities etc. for damage caused by escapes of water onto agricultural or forestry land.**

In section 10 of the Water (Scotland) Act 1980 (which among other things provides that compensation is to be made by a water authority to a person sustaining damage by reason of their exercise of certain statutory powers)—

- (a) after subsection (1) there shall be inserted the following subsection—

“(1A) The escape of water, however caused, onto agricultural land or forestry land from one of a water authority’s or as the case may be water development board’s communication pipes or mains shall for the purposes of subsection (1) above be taken to have been brought about by the exercise by them of powers under this Act.” ; and

- (b) after subsection (4) there shall be inserted the following subsections—

“(5) Without prejudice to any right to compensation other than under subsection (1) above, in that subsection “person” does not, as

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regards compensation payable under that subsection by virtue of subsection (1A) above, include—

- (a) statutory undertakers as defined in section 275(1) of the Town and Country Planning (Scotland) Act 1972 ;
- (b) highway authorities as defined in section 50(1) of the Roads (Scotland) Act 1970 ;
- (c) bridge authorities or managers as defined in section 39(1) of the Public Utilities Street Works Act 1950 ;
- (d) street authorities or managers as defined in the said section 39(1) ; or
- (e) persons on whom a right to compensation under section 26 of the said Act of 1950 is conferred.

- (6) In subsection (1A) above, the expressions “agricultural land” and “forestry land” mean land (but not any building) used, respectively, for agriculture or for forestry which is so used for the purposes of a trade or business and in the foregoing provisions of this subsection “agriculture” has the meaning assigned to it by section 86(3) of the Agriculture (Scotland) Act 1948 and “forestry” means the growing of woods and forests for the production of timber and other forest products and the growing of trees for planting in such woods and forests.”.

**Modifications etc. (not altering text)**

**C34** The text of s. 5(1), 6, 7, 9(2), 10–13, 20, 21, 22(a)–(c) 23, 31, 36–50, 56–59, 60(1)(a)(b)(2), 66, Sch. 1 Pt. II, Sch. 2 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

**58 Power of water authority to require separate service pipes in cases of interference with water supply.**

In paragraph 7(5) of Schedule 3 to the <sup>M33</sup>Water (Scotland) Act 1980 (the which Schedule makes provision among other things as regards the laying of communication and supply pipes)—

- (a) the word “either” shall cease to have effect ; and
- (b) at the end there shall be added the words—

“; or

- (c) the owner or occupier of any of the houses has interfered with, or allowed another person to interfere with, the existing service pipe or the stopcock fixed to that pipe and has thereby caused the supply of water to any of the houses to be interfered with ; or
- (d) the authority have reasonable grounds to believe that such interference as is mentioned in (c) above is likely to take place.”.

*Status: Point in time view as at 01/02/1991.*

*Changes to legislation: There are currently no known outstanding effects for the Local Government and Planning (Scotland) Act 1982. (See end of Document for details)*

**Modifications etc. (not altering text)**

**C35** The text of s. 5(1), 6, 7, 9(2), 10–13, 20, 21, 22(a)–(c) 23, 31, 36–50, 56–59, 60(1)(a)(b)(2), 66, Sch. 1 Pt. II, Sch. 2 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

**Marginal Citations**

**M33** 1980 c. 45.

**59 Exemption from charges for water for fire fighting.**

After section 9 of the Water (Scotland) Act 1980 there shall be added the following section—

Without prejudice to any provision relating to domestic water rate but notwithstanding anything in section 9 or 49 of this Act, no charge may be made by a water authority in respect of—

- (a) water taken for the purposes of extinguishing fires or of testing apparatus installed, or equipment used, for extinguishing fires ; or
- (b) the availability of water for the said purposes:

Provided that nothing in this section shall prevent the making of charges in respect of work carried out at the request of or for the benefit of any person receiving a supply of water for the said purposes.”.

**Modifications etc. (not altering text)**

**C36** The text of s. 5(1), 6, 7, 9(2), 10–13, 20, 21, 22(a)–(c) 23, 31, 36–50, 56–59, 60(1)(a)(b)(2), 66, Sch. 1 Pt. II, Sch. 2 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

**60 Approved duties of councillors and allowances in respect thereof.**

(1) Under the <sup>M34</sup>1973 Act, members of local authorities who are councillors shall, in respect of the performance of approved duties, have the right to decide whether to receive attendance allowance or financial loss allowance; and accordingly—

- (a) in subsection (1) of section 45 of that Act (the which subsection relates to entitlement to attendance allowance) after the word “shall” there shall be inserted the words “, (unless a notice under section 45A of this Act is effective in relation to him), ”; and
- (b) after the said section 45 there shall be inserted the following section—

**“45A Right of councillor to opt for financial loss allowance.**

If a councillor gives notice in writing to the local authority of which he is to receive financial loss allowance, he shall be entitled, subject to and in accordance with the provisions of any payment by way of attendance allowance to which he would otherwise be entitle.”

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- (2) In subsection (2) of section 49 of the 1973 Act (the which subsection relates to the interpretation of the expression “approved duty”)—
- (a) after the words “45,” there shall be inserted the words “45A, ” ;
  - (b) in paragraph (a), the words “, or of any of its committees or sub-committees” shall cease to have effect ; and
  - (c) after paragraph (a) there shall be inserted the following paragraph—
    - “(aa) attendance at a meeting of a committee, or sub-committee, of the body if such attendance is—
      - (i) as a member of ;
      - (ii) at the invitation of ; or
      - (iii) expressly authorised by,
 the committee or, as the case may be, sub-committee or is at the invitation of, or expressly authorised by, the body ;”.

**Modifications etc. (not altering text)**

**C37** The text of s. 5(1), 6, 7, 9(2), 10–13, 20, 21, 22(a)–(c) 23, 31, 36–50, 56–59, 60(1)(a)(b)(2), 66, Sch. 1 Pt. II, Sch. 2 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

**Marginal Citations**

**M34** 1973 c. 65.

**61 Abolition of Amenity Committee.**

The Amenity Committee appointed under subsection (2) of section 9 of the <sup>M35</sup>Hydro-Electric Development (Scotland) Act 1943 (a subsection which among other things provided that the Secretary of State was to appoint such a committee for the purpose of giving advice and assistance to him and to the Scottish Electricity Boards and which is re-enacted as subsection (2) of section 5 of the <sup>M36</sup>Electricity (Scotland) Act 1979) is hereby abolished.

**Marginal Citations**

**M35** 1943 c. 32.

**M36** 1979 c. 11.

**62 Abolition of Staff Commission for Scotland.**

The Staff Commission for Scotland is hereby abolished; and accordingly, in the 1973 Act, section 218 (which relates to the establishment, functions, procedure and expenses of that Commission) shall cease to have effect.

**63 Abolition of Property Commission for Scotland.**

The Property Commission for Scotland is hereby abolished; and accordingly, in the 1973 Act, in section 224 (which relates among other things to the establishment and

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functions of that Commission) subsections (1) to (4), and in subsection (6) the words “this section and in”, shall cease to have effect.

### *Supplementary*

#### **64 Savings in respect of byelaws.**

Notwithstanding the repeal by this Act of any provision, byelaws—

- (a) made by, under or by virtue of the provision; and
- (b) in force immediately before the repeal,

shall, where or in so far as like byelaws could be made by, under or by virtue of a provision of this Act, remain in force until the end of 1986 or (if earlier) until expressly revoked.

#### **65 Consequential, transitional and supplementary provisions.**

(1) The Secretary of State may by order make such incidental, consequential, transitional or supplementary provision as appears to him to be necessary or proper—

- (a) for the general or any particular purposes of this Act or in consequence of any of the provisions of, or for giving full effect to, this Act; or
- (b) in consequence of such of the provisions of any other Act passed in the same session as this Act as apply to any area or authority affected by this Act;

and nothing in any other provision of this Act shall be construed as prejudicing the generality of this subsection.

(2) Where powers or duties as regards a function are transferred by, under or by virtue of this Act from one body (in this section referred to as the first body) to another (so referred to as the second body)—

- (a) any agreement to which the first body is immediately before the transfer a party shall, in so far as it derives from or relates to those powers and duties, have effect as from the transfer as if the second body were a party to the agreement instead of the first body;
- (b) any legal, or other, proceedings to which the first body is a party and which are pending immediately before the transfer may, in so far as they derive from or relate to those powers and duties, be continued on or after the transfer (but may only be so continued) as if the second body instead of the first body were that party; and
- (c) any writings or actings of or with regard to the first body which although not writings or actings comprehended under paragraph (a) or (b) above have, immediately before the transfer, some legal effect shall, in so far as they derive from or relate to those powers and duties, have such effect as from the transfer as if they had been writings or actings of, or as the case may be with regard to, the second body:

Provided that the foregoing provisions of this subsection shall have no effect in respect of criminal, or delictual, liability of either body (or of such liability of their members or officers).

(3) Subsection (2) above may by order made by the Secretary of State be excluded, either wholly or to such extent as he may specify in the order, from applying in any particular case.

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- (4) Any order under subsection (1) or (3) above shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.

## 66 Amendments and repeals.

- (1) The enactments specified in Schedule 3 to this Act shall have effect subject to the amendments specified in that Schedule, being minor amendments or amendments consequential upon the provisions of this Act.
- (2) The enactments specified—
- (a) in Part I of Schedule 4 to this Act (which include certain spent enactments); and
  - (b) in Part 11 of that Schedule (which relate to powers of entry),
- are hereby repealed to the extent specified in the third column of that Schedule.

### Modifications etc. (not altering text)

**C38** The text of s. 5(1), 6, 7, 9(2), 10–13, 20, 21, 22(a)–(c) 23, 31, 36–50, 56–59, 60(1)(a)(b)(2), 66, Sch. 1 Pt. II, Sch. 2 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

## 67 Interpretation.

In this Act, unless the context otherwise requires—

“the 1972 Act” means the Town and Country Planning (Scotland) Act 1972; and

“the 1973 Act” means the Local Government (Scotland) Act 1973.

## 68 Expenses.

There shall be defrayed out of moneys provided by Parliament—

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

## 69 Short title, commencement and extent.

- (1) This Act may be cited as the Local Government and Planning (Scotland) Act 1982.
- (2) Subject to section 55(2) of this Act, this Act (except this section) shall come into operation on such day as the Secretary of State may by order made by statutory instrument appoint; and different days may be appointed under this subsection for different provisions of this Act or for different purposes, or for the purposes of the same provision in relation to different cases.
- (3) This Act extends to Scotland only.



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.....  
**Modifications etc. (not altering text)**

**C39** Power of appointment conferred by s. 69(2) fully exercised: [S.I. 1982/1137](#), 1397, 1984/239

*Status: Point in time view as at 01/02/1991.*

*Changes to legislation: There are currently no known outstanding effects for the Local Government and Planning (Scotland) Act 1982. (See end of Document for details)*

## SCHEDULES

### SCHEDULE 1

Section 9

#### RE-ALLOCATION OF FUNCTIONS RELATING TO THE COUNTRYSIDE

#### PART I

#### DESCRIPTION OF CHANGE

<b>1. Section</b>	<b>2. Authorities presently carrying out functions</b>	<b>3. Authorities which are to carry out functions henceforth</b>
<i>(A) THE LOCAL GOVERNMENT (DEVELOPMENT AND FINANCE) (SCOTLAND) ACT 1964 (C. 67)</i>		
2(1)(a) and (c) and (2).	All local and planning authorities	Islands and district councils, and general and district planning authorities.
<i>(B) THE COUNTRYSIDE (SCOTLAND) ACT 1967 (C. 86)</i>		
12.	All planning authorities.	General and district planning authorities.
13.		
14.		
16.		
17.		
18.		
20.		
24.		
27.		
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29.		
30.		
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32.		

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33.		
34.		
35.		
38.		
49.	All local and planning authorities.	Islands and district councils.
50.	All local and planning authorities.	Islands and district councils, and general and district planning authorities.
51.	All planning authorities.	General and district planning authorities.
52.	All local and planning authorities.	Islands and district councils, and general and district planning authorities.
54.		
55.	All planning authorities.	General and district planning authorities.
56.		
65.	All local and planning authorities.	Islands and district councils, and general and district planning authorities.
69(3).	All planning authorities.	General and district planning authorities.

## PART II

### CONSEQUENTIAL AMENDMENT OF ENACTMENTS

#### Modifications etc. (not altering text)

**C40** The text of s. 5(1), 6, 7, 9(2), 10–13, 20, 21, 22(a)–(c) 23, 31, 36–50, 56–59, 60(1)(a)(b)(2), 66, Sch. 1 Pt. II, Sch. 2 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

#### *The Local Government (Development and Finance) (Scotland) Act 1964 (c. 67)*

1 At the end of section 3 (supplementary provisions in relation to the power to develop land) there shall be added the following subsection—

“(4) For the purposes of this section (except in so far as it relates to powers conferred by section 2(1)(b) of this Act) and of section 2(1)(a) and (c) and (2) of this Act “local authority” means a district council, an islands council, a general planning authority or a district planning authority ; and for the purposes of section 2(1)(b) of this Act means a regional, islands or district council or a planning authority.”.

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*Changes to legislation: There are currently no known outstanding effects for the Local Government and Planning (Scotland) Act 1982. (See end of Document for details)*

*The Countryside (Scotland) Act 1967 (c. 86)*

- 2 In section 12 (Countryside Commission to consult with local planning authorities and other bodies on access requirements), in subsection (1) for the words from “with”, where it first occurs, to “planning” there shall be substituted the words “with general and district planning”.
- 3 In section 13(1) (power to make access agreement), for the words from “A” to “planning” there shall be substituted the words “A general or district planning”.
- 4 In section 14(1) (power to make access order) for the words from “the”, where it occurs for the third time, to “planning” there shall be substituted the words “the general or district planning”.
- 5 In section 16(5) (enforceability etc. of access agreement), for the words from “the”, where it occurs for the second time, to “planning”, where it first occurs, there shall be substituted the words “the general or district planning”.
- 6 In section 17(4) (works for giving effect to access agreement), for the words from “the”, where it first occurs, to “planning” there shall be substituted the words “the general or district planning”.
- 7 In section 18(1) (enforcement of access), for the words from “any”, where it occurs for the third time, to “planning” there shall be substituted the words “the general or district planning”.
- 8 In section 20 (compensation for access orders), for the words from “Act” to “planning” there shall be substituted the words “Act the general or district planning”.
- 9 In section 24(1) (acquisition of land for public access), for the words from “a” to “planning”, where it first occurs, there shall be substituted the words “a general or district planning”.
- 10 In each of sections 27(4) (taking of steps to protect public from danger on land which is subject to access agreement etc.), 28 (power to erect and maintain boundary notices as regards land comprised in access agreement etc.), 29 (power of planning authority to contribute to work carried out by other persons as regards land which is subject to access agreement etc.) and 30(1) (creation of public paths by agreement), for the words from “A” to “planning” there shall be substituted the words “A general or district planning”.
- 11 In section 31(1) (compulsory powers for creation of public paths), for the words from “a” to “planning” there shall be substituted the words “a general or district planning”.
- 12 In section 32 (powers of planning authority in relation to a proposed public path lying partly within and partly outwith their area)—
- (a) for the words from “a”, where it occurs for the second time, to “planning”, where it first occurs, there shall be substituted the words “a general or district planning”; and
  - (b) for the words from “other” to “planning”, where it occurs for the second time, there shall be substituted the words “other general or district planning”.
- 13 In section 33(1) (making up and maintenance of public paths), for the words from “the”, where it occurs for the third time, to “planning” there shall be substituted the words “the general or district planning”.

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- 14 In section 34(1) (closure of public paths), for the words from “a”, where it first occurs, to “planning” there shall be substituted the words “a general or district planning”.
- 15 In section 35 (diversion of public paths)—
- (a) in subsection (1), for the words from “the”, where it first occurs, to “planning” there shall be substituted the words “the general or district planning”; and
  - (b) in subsection (4)(b), for the words from “any”, where it occurs for the second time, to “planning” there shall be substituted the words “any general or district planning”.
- 16 In section 38(3) (supplementary provisions as regards public path creation, extinguishment and diversion orders)—
- (a) for the words from “one”, where it first occurs, to “planning”, where it first occurs, there shall be substituted the words “one general or district planning”; and
  - (b) after the word “one”, where it occurs for the third time, there shall be inserted the word “such”.
- 17 For subsection (5) of section 49 (interpretation of provisions relating to camping sites) there shall be substituted the following subsection—
- “(5) In the foregoing provisions of this section “local authority” means an islands or district council.”.
- 18 For subsection (3) of section 50 (interpretation of provisions relating to accommodation, meals and refreshments) there shall be substituted the following subsection—
- “(3) In this section “local authority” means a district council, an islands council, a general planning authority or a district planning authority.”.
- 19 For subsection (2) of section 51 (power to provide parking places) there shall be substituted the following subsection—
- “(2) General and district planning authorities may exercise the power conferred by the foregoing subsection, and for that purpose may acquire land compulsorily; and sections 28 (except subsection (6)), 29, 31, 32, 52, 53 and 96 of the said Act of 1967 shall apply for the purposes of this subsection as if for any reference therein to a local authority there were substituted a reference to a general or district planning authority.”.
- 20 For subsection (2) of section 52 (exercise of powers under <sup>M37</sup>Local Government (Development and Finance) (Scotland) Act 1964) there shall be substituted the following subsections—
- “(2A) For the purposes of section 2(1)(a) and (c) and (2) of the said Act of 1964, general and district planning authorities may acquire land compulsorily.
  - “(2B) For the purposes of section 2(1)(b) of the said Act of 1964, planning authorities may acquire land compulsorily.”.

**Marginal Citations**

M37 1964 c. 76.

*Status: Point in time view as at 01/02/1991.*

*Changes to legislation: There are currently no known outstanding effects for the Local Government and Planning (Scotland) Act 1982. (See end of Document for details)*

- 21 In section 54 (byelaws as respects country parks and local authority land in the countryside)—
- (a) in subsection (1), for the words from “a”, where it occurs for the second time, to “planning” there shall be substituted the words “a general or district planning ” ; and
- (b) for subsection (5) there shall be substituted the following subsection—
- “(5) In this section “local authority” means a district council, an islands council, a general planning authority or a district planning authority.”.
- 22 In section 55(1) (default powers of Secretary of State as to byelaws) for the words from “a”, where it first occurs, to “planning”, where it first occurs, there shall be substituted the words “a general or district planning ”.
- 23 In section 56 (byelaws as to pleasure boats), in subsection (1), for the words from “a”, where it first occurs, to “planning” there shall be substituted the words “a general or district planning ”.
- 24 In section 65(5) (authorities which may appoint wardens as respects certain land or waterways), for paragraphs (c) and (d) there shall be substituted the following paragraphs-
- (c) islands and district councils ;
- (d) general and district planning authorities ;
- 25 In section 69(3) (powers of planning authority as regards acquisition, appropriation, disposal, etc. of land)—
- (a) for the words from “a”, where it first occurs, to “planning”, where it first occurs, there shall be substituted the words “a general or district planning ” ; and
- (b) for the words from “a”, where it occurs for the third time, to “planning”, where it occurs for the second time, there shall be substituted the words “a general or district planning ”.

## SCHEDULE 2

Section 48.

### AMENDMENTS OF <sup>M38</sup>TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1972

#### **Modifications etc. (not altering text)**

**C41** The text of s. 5(1), 6, 7, 9(2), 10–13, 20, 21, 22(a)–(c) 23, 31, 36–50, 56–59, 60(1)(a)(b)(2), 66, Sch. 1 Pt. II, Sch. 2 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

#### **Marginal Citations**

**M38** 1972 c. 52.

- 1 In subsection (1) of section 16 (which makes supplementary provision as regards structure and local plans)—
- (a) after the word “alteration,” where it—
- (i) first occurs ;

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**Changes to legislation:** *There are currently no known outstanding effects for the Local Government and Planning (Scotland) Act 1982. (See end of Document for details)*

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- (ii) occurs in paragraph (b) ; and
    - (iii) occurs in paragraph (c),
  - there shall in each case be inserted the word “modification, ” , and
  - (b) after the word “adoption”, where it occurs in paragraph (d), there shall be inserted the word “, modification ”.
- 2 In section 22 (which relates to the form and content of applications for planning permission)—
  - (a) at the beginning there shall be inserted the word “(1) ” ;
  - (b) after the word “Act” there shall be inserted the words or “by a development order ” ;
  - (c) for the words “by the regulations or by directions given by the planning authority thereunder.” there shall be substituted the words “by—
    - (a) the regulations ; or
    - (b) the development order ; or
    - (c) directions given by the planning authority under the said regulations or the said development order.” ; and
  - (d) at the end there shall be added the following subsection—
    - “(2) In subsection (1) above “planning authority includes a regional planning authority.”.”
- 3 In section 24 (which provides for notification of applications to owners and agricultural tenants)—
  - (a) in subsection (2B), for the word “granting” there shall be substituted the word “determining ” ;
  - (b) in subsection (4)—
    - (i) for the words “or (d)” there shall be substituted the words “, (cc) or (d) or (2C) ” ; and
    - (ii) after the word “publication” there shall be inserted the words “or, as the case may be, posting ” ; and
  - (c) in subsection (7), for the words “the undertaking” there shall be substituted the words “an undertaking ”.
- 4 In section 25 (which relates to publicity for planning applications affecting conservation areas), after subsection (3) there shall be added the following subsection—
  - (4) Where an application for planning permission is dealt with by a regional planning authority by virtue of section 179 of the Local Government (Scotland) Act 1973, subsection (3) above shall apply as if the reference therein to “the planning authority” were a reference to the regional planning authority..
- 5 In subsection (2) of section 26 (which relates to the determination of applications) for the words from “the end” to the end there shall be substituted the words “the expiry of any period prescribed under subsection (1)(h) of that section. ”.
- 6 In section 28 (which provides for the regulation of the manner in which planning applications are dealt with)—
  - (a) after paragraph (d) there shall be inserted the following paragraph—
    - (dd) for requiring the planning authority to give any applicant for any consent, agreement or approval required by a condition imposed on a grant of

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- planning permission notice of their decision on his application, within such time as may be so prescribed ;;
- (b) after subsection (1) there shall be added the following subsection—
- (2) The provisions of paragraphs (d) and (e) of subsection (1) above shall apply in relation to applications for an approval required by a development order as they apply in relation to applications for planning permission. ; and
- (c) at the end there shall be added the following subsection—
- “(3) In this section “planning authority” includes a regional planning authority.”.
- 7 In subsection (1) of section 29 (which relates to permission to retain buildings or works. or continue use of land)—
- (a) after the word “whether” there shall be inserted the word ”—
- (a) “ ; and
- (b) at the end there shall be added the words or ”; or
- (b) the application is for permission to retain the buildings or works, or continue the use of land, without complying with some condition subject to which a previous planning permission was granted.“.
- 8 After section 30 there shall be inserted the following section—
- “30A Date of planning permission.**
- The date of the granting or of the refusal of any such application as is mentioned in section 23(2) of this Act shall be the date on which the notice of the planning authority’s decision bears to have been signed on behalf of the authority.”.
- 9 At the end of section 31 (which relates to registers of applications and decisions) there shall be added the following subsection—
- “(5) The provisions of this section shall apply in relation to applications for an approval required by a development order as they apply in relation to applications for planning permission.”.
- 10 In section 32 (which relates to the reference of applications to the Secretary of State)
- 
- (a) in subsection (1), for the words from “applications” to “order” there shall be substituted the words “any such application as is mentioned in section 23(2) of this Act ” ;
- (b) in subsection (4)—
- (i) the words “for planning permission”, in both places where they occur, shall cease to have effect ;
- (ii) for the words “(2) and (7)” there shall be substituted the words “(1) (f) and (h) ” ;
- (iii) after the word “24”, there shall be inserted the words “(2B), (2C), (2D) and (4) ” ; and
- (iv) the words “(1) to (3)” shall cease to have effect ; and
- (c) at the end there shall be added the following subsection—
- “(7) In this section “planning authority” includes a regional planning authority.”.



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*Changes to legislation: There are currently no known outstanding effects for the Local Government and Planning (Scotland) Act 1982. (See end of Document for details)*

- 11 In section 33 (which relates to appeals against planning decisions)—
- (a) in subsection (1), for the words from “for planning” to “permission” in the second place where it occurs, there shall be substituted the words—
    - “(a) for planning permission to develop land
    - (b) for an approval of that authority required under a development order ; or
    - (c) for any consent, agreement or approval of that authority required by a condition imposed on a grant of planning permission, and that permission, consent, agreement”; and
  - (b) in subsection (5), after the word “sections” there shall be inserted the words “23, ”.
- 12 In section 34 (which relates to appeals in default of planning decisions) for the words from “an application” to “order”, where it first occurs, there shall be substituted the words “any such application as is mentioned in section 33(1) of this Act is made to a planning authority”.
- 13 In section 39(2)(a) (which relates to outline planning permission), for the words “not later than the expiration of three years beginning with the date of the grant of outline planning permission” there shall be substituted the words—
- “before—
- (i) the expiration of 3 years from the date of the grant of outline planning permission ; or
  - (ii) the expiration of 6 months from the date on which an earlier application for such approval was refused ; or
  - (iii) the expiration of 6 months from the date on which an appeal against such refusal was dismissed,
- whichever is the latest:
- Provided that only one such application may be made in the case after the expiration of the 3 year period mentioned in sub-paragraph (i) above”.
- 14 At the end of section 50 (which provides for agreements for the purpose of restricting or regulating the development or use of land), there shall be added the following subsection—
- “(4) In this section “planning authority” includes a regional planning authority.”.
- 15 In section 54 (which relates to the control of works in regard to listed buildings)—
- (a) in subsection (3),
    - (i) for the words “consists in or includes works for the alteration or extension of a listed building” there shall be substituted the words “affects a listed building or its setting ” ; and
    - (ii) after the words “preserving the building” there shall be inserted the words “or its setting ” ;
  - (b) in subsection (4), for the words from the beginning to “subsection (2) of this section,” there shall be substituted the words—
    - “(4) Listed building consent may be granted subject to conditions ; and, without prejudice to the generality of the foregoing provisions of this subsection, the conditions may” ; and

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(c) for subsection (5) there shall be substituted the following subsection—

“(5) In granting a listed building consent a planning authority may attach to the consent a condition that no demolition of the listed building shall take place until either or both of the following requirements have been met—

- (a) an agreement for the regulation of the, development of the site of the listed building has been made and recorded under section 50 of this Act ;
- (b) the planning authority are satisfied that contracts have been placed either—
  - (i) for the redevelopment of the site ; or
  - (ii) for its conversion to an acceptable open space, in accordance with a current planning permission.”.

16 After the said section 54 there shall be inserted the following sections—

**“54A Limit on duration of building listed consent**

- (1) Any listed building consent granted after the commencement of this section shall be granted subject to a condition that works permitted by that consent shall be commenced within such period as the planning authority may specify in the consent.
- (2) If no time limit is specified in any grant of listed building consent under subsection (1) above, the grant shall be deemed to have been made subject to a condition that works in terms thereof shall be commenced within 5 years from the date of the grant.
- (3) Any grant of listed building consent made prior to 1st January 1980 which does not contain such a condition as is mentioned in subsection (1) above shall be deemed to have been granted subject to a condition that works in terms thereof shall be commenced within 3 years of the commencement of this section.
- (4) Any grant of listed building consent made on or after 1st January 1980 but before the commencement of this section which does not contain such a condition as is mentioned in subsection (1) above shall be deemed to have been made subject to a condition that works in terms thereof shall be commenced within 5 years of the commencement of this section.

**54B Date of listed building consent.**

The date of the granting or of the refusal of an application for listed building consent shall be the date on which the notice of the planning authority’s decision bears to have been signed on behalf of the authority.”.

17 In section 63 (which relates to the proper maintenance of waste land)—

(a) for subsection (1) there shall be substituted the following subsections—

“(1) If it appears to a planning authority that the amenity of any part of their district, or of any adjoining district, is seriously injured by reason of—

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- (a) the ruinous or dilapidated condition of any building in their district ; or
- (b) the derelict, waste or neglected condition of any other land in their district,

the authority may serve on the owner, lessee and occupier of the building or land a notice (in this and the following section referred to as a “waste land notice”) requiring such steps for abating the injury as may be specified in the notice to be taken within such period as may be so specified.

(1A) Service under subsection (1) above shall be effected by the service of a copy of the notice ; and references in this Act to service of waste land notices shall be so construed.

(1B) Subject to section 63A of this Act, a waste land notice shall take effect on such date as may be specified in the notice, being a date not less than 28 days after the latest service thereof under subsection (1) above.

(1C) The planning authority may withdraw a waste land notice (without prejudice to their power to serve another) at any time before it takes effect ; and if they so withdraw it, they shall forthwith give notice of the withdrawal to every person on whom the notice was served.” ; and

- (b) in subsection (3), for the words “sections 85 and 88” there shall be substituted the words ” section 88 ”.

18 After section 63 there shall be inserted the following section—

**“63A Appeals against waste land notices.**

(1) A person on whom a waste land notice is served, or any other person having an interest in the land to which the notice relates, may at any time before the date specified in the notice as the date on which it is to take effect appeal to the Secretary of State against the notice, on any of the following grounds—

- (a) that there is no serious injury to the amenity of any part of the planning authority’s district or of any adjoining district ;
- (b) that the steps required by the notice to be taken exceed what is necessary to remedy any such injury ;
- (c) that the specified period for compliance with the notice falls short of what should reasonably be allowed ;
- (d) that the condition of the land is attributable to, and such as results in the ordinary course of events from, a continuing lawful use of the land or from continuing lawful operations carried out thereon ; or
- (e) that the notice was served other than in accordance with section 63 of this Act.

(2) An appeal under this section shall be made by notice in writing to the Secretary of State.

(3) The provisions of subsections (2A) to (2D) of section 85 of this Act shall apply to appeals under this section as they apply to appeals under that section.

(4) On an appeal under this section the Secretary of State—

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- (a) may correct any informality, defect or technical error in the notice if he is satisfied that it is not material ; and
- (b) may disregard the failure of the planning authority to serve the notice upon a person upon whom it should have been served, if it appears to him that neither that person nor the appellant has been substantially prejudiced by that failure.
- (5) Where an appeal is brought under this section, the waste land notice shall be of no effect pending the final determination, or the withdrawal, of the appeal.
- (6) In determining an appeal under this section the Secretary of State shall give such directions as seem to him appropriate , and these may include directions for quashing the notice or for varying its terms in favour of the appellant.”.
- 19 In section 84 (which relates to the power to serve enforcement notices)—
- (a) after paragraph (c) of subsection (3) there shall be inserted the words—
- “; or
- (d) the failure to comply with a condition which prohibits, or has the effect of preventing, a change of use of a building to use as a single dwelling-house,” ;
- (b) after subsection (5) there shall be inserted the following subsection—
- “(5A) Service under subsection (5) above shall be effected by the service of a copy of the notice ; and references in this Act to service of enforcement notices shall be so construed.” ;
- (c) for subsection (7) there shall be substituted the following subsections—
- “(7) In an enforcement notice the planning authority shall specify the matters alleged to constitute a breach of planning control and the steps required to be taken to restore the land to its condition before the breach took place ; but may in addition specify, as an alternative, the steps required to be taken to bring the land to a condition acceptable to the planning authority, having regard to the development plan and any other material consideration.
- (7A) The planning authority shall also specify in the enforcement notice—
- (a) the period or periods within which any steps specified under subsection (7) above are to be carried out ; and any such period shall begin with the date when the notice is to take effect ; and
- (b) such additional matters as may be prescribed under subsection (12) of this section.
- (7B) Where a development in respect of which an enforcement notice has been served is altered in accordance with steps required by virtue of subsection (7) above, planning permission shall be, deemed to have been granted in respect of the development as so altered.” ;
- (d) for subsection (9) there shall be substituted the following subsection—
- “(9) Subject to section 85 of this Act, an enforcement notice shall take effect on such date as may be specified in the notice, being a

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date not less than 28 days after the latest service thereof under subsection (5) above.” ; and

(e) at the end there shall be added the following subsection—

“(12) The Secretary of State may prescribe matters, additional to those mentioned in subsections (7) and (7A) above, to be specified by planning authorities in enforcement notices ; and without prejudice to the generality of the foregoing provisions of this subsection may require a planning authority to include in an enforcement notice—

- (a) a note, in such terms as may be prescribed, explaining the rights of persons to appeal against the notice ; and
- (b) a note of the planning authority’s reasons for serving the notice.”.

20 In section 85 (which relates to appeals against enforcement notices)—

(a) in subsection (1)—

- (i) for the words “within the period specified in the notice as the period at the end of” there shall be substituted the words “before the date specified in the notice as the date on ” ; and
- (ii) after paragraph (b) there shall be inserted the following paragraph—

“(bb) that the breach of planning control alleged in the notice has not taken place ;” ;

(b) for subsection (2) there shall be substituted the following subsections—

“(2) An appeal under this section shall be made by notice in writing to the Secretary of State.

(2A) A person who gives notice under subsection (2) of this section shall submit to the Secretary of State, either when giving the notice or within such time as may be prescribed under subsection (2B) of this section, a statement in writing—

- (a) specifying the grounds on which he is appealing against the enforcement notice ; and
- (b) giving such further information as may be so prescribed.

(2B) The Secretary of State may prescribe the procedure to be followed on appeals under this section, and (without prejudice to the generality of the foregoing provisions of this subsection) in so prescribing—

- (a) may specify the time within which an appellant is to submit a statement under subsection (2A) of this section and the matters on which information is to be given in such a statement ;
- (b) may require the planning authority to submit, within such time as may be specified, a statement indicating the submissions which they propose to put forward on the appeal ;
- (c) may specify the matters to be included in such a statement ;
- (d) may require the authority or the appellant to give such notice of an appeal under this section as may be specified, being notice which in the opinion of the Secretary of State

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is likely to bring the appeal to the attention of persons in the locality in which the land to which the enforcement notice relates is situated ;

- (e) may require the authority to send to the Secretary of State, within such period from the date of the bringing of the appeal as may be specified, a copy of the enforcement notice and a list of the persons on whom the notice has been served.

(2C) The Secretary of State—

- (a) may dismiss an appeal if the appellant fails to comply with subsection (2A) above within the time prescribed under subsection (2B)(a) above ; and
- (b) may allow an appeal and quash the enforcement notice if the planning authority fail to comply with any requirement imposed by virtue of paragraph (b), (c) or (e) of subsection (2B) above.

(2D) Subject to subsection (2C) above, the Secretary of State shall, if either the planning authority or the appellant so desire, afford to each of them an opportunity of appearing before, and being heard by, a person appointed by him for the purpose.” ; and

- (c) in subsection (5), after paragraph (a) there shall be added the following paragraph—
  - “(aa) grant planning permission for such other development on the land to which the enforcement notice relates as appears to him to be appropriate ;”.

21 In section 86 (which relates to the continuing contravention of an enforcement notice), for the words “£50” there shall be substituted the words “£100 ”.

22 In section 87(8)(b) (which relates to the continuing contravention of a stop notice), for the words “£50” there shall be substituted the words “£100 ”.

23 In section 88 (which relates to the execution and cost of works required by an enforcement notice)—

- (a) after subsection (1) there shall be added the following subsection—

“(1A) In computing the amount of the expenses which may be recovered by them under subsection (1) above, a planning authority may include in that amount such proportion of their administrative expenses as seems to them to be appropriate.” ; and

- (b) for subsections (3) and (4) there shall be substituted the following subsections—

“(3) If on a complaint by the owner of any land it appears to the sheriff that the occupier of the land is preventing the owner from carrying out work required to be carried out by an enforcement notice, the sheriff may by warrant authorise the owner to go on to the land and carry out that work.

- (4) A planning authority taking steps under subsection (1) above may sell any materials removed by them from the land unless those materials are claimed by the owner within 3 days of their removal by the planning authority ; and where such materials have

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been sold the planning authority shall, after deducting therefrom any expenses recoverable by them from the owner, pay him the proceeds of such sale.

(5) Where a planning authority seek, under subsection (1) above, to recover any expenses from a person on the basis that he is the owner of any land, and such person proves that—

- (a) he is receiving the rent in respect of that land merely as trustee, tutor, curator, factor or agent of some other person ; and
- (b) he has not, and since the date of the service on him of the demand for payment has not had, in his hands on behalf of that other person sufficient money to discharge the whole demand of the authority, his liability shall be limited to the total amount of the money which he has or has had in his hands as aforesaid ; but a planning authority who by reason of the foregoing provisions of this subsection have not recovered the whole of any such expenses from a trustee, tutor, curator, factor or agent may recover any unpaid balance from the person on whose behalf the rent is received.”.

24 In section 89(4) (which relates to the reinstatement of buildings or works which have been demolished or altered in compliance with an enforcement notice), for the words “£100” there shall be substituted the words “£1,000 ”.

25 After section 89 (which provides for the continuation in force of enforcement notices) there shall be added the following section—

**“89A Effect of subsequent planning permission on enforcement notice.**

—Notwithstanding subsections (1) to (3) of section 89 of this Act, an enforcement notice shall cease to have effect to the extent that its terms are inconsistent with the terms of any planning permission granted, or deemed to have been granted, subsequent to the service of the notice.”.

26 In section 92 (which relates to the power to serve listed building enforcement notices)—

(a) for paragraph (b) of subsection (1) there shall be substituted the following paragraphs—

- “(b) specifying one of the following sets of steps-
  - (i) the steps required to restore the building to its former state ;
  - (ii) the steps required to bring the building to the state it would have been in if the terms and conditions of any listed building consent for the works had been complied with ;
  - (iii) subject to subsection (1A) below, the steps required to alleviate, in a manner acceptable to the planning authority, the effects of works executed without listed building consent ; and
- (c) specifying the period within which steps specified under paragraph (b) above are to be taken.” ;

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- (b) after subsection (1) there shall be inserted the following subsection—
- “(1A) A planning authority may specify steps under sub-paragraph (iii) of paragraph (b) of subsection (1) above, if, but only if, it appears to them either—
- (a) that complete restoration of the building to its former state is not reasonably practicable ; or
- (b) that such restoration is undesirable, having regard to the desirability of preserving—
- (i) the character of the building ; or
- (ii) its features of architectural or historical interest.” ;
- (c) after subsection (2) there shall be inserted the following subsection—
- “(2A) Where such steps as are mentioned in subsection (1)(b)(iii) above have been taken in relation to works carried out on a building, listed building consent shall be deemed to have been granted in respect of those works as alleviated.” ;
- (d) after subsection (3) there shall be inserted the following subsection—
- “(3A) Service under subsection (3) above shall be effected by the service of a copy of the notice ; and references in this Act to service of listed building enforcement notices shall be so construed.” ; and
- (e) for subsection (4) there shall be substituted the following subsection—
- “(4) Subject to section 93 of this Act, a listed building enforcement notice shall take effect on such date as may be specified in the notice, being a date not less than 28 days after the latest service thereof under subsection (3) above.”.

27 In section 93 (which relates to appeals against listed building enforcement notices)

- (a) in subsection (1)—
- (i) for the words from “within the” to “end of” there shall be substituted the words— “ before the date specified in the notice as the date on ” and ;
- (ii) after paragraph (h) there shall be added the following paragraphs—
- “(i) that the steps specified under sub-paragraph (ii) of section 92(1)(b) of this Act exceed what is necessary to bring the building to the state mentioned in that sub-paragraph ;
- (j) that the steps specified under sub-paragraph (iii) of the said section 92(1)(b) exceed what may reasonably be required in terms of that subparagraph ;
- (k) that the breach of listed building control alleged in the notice has not taken place.” ;
- (b) for subsection (2) there shall be substituted the following subsections—
- “(2) An appeal under this section shall be made by notice in writing to the Secretary of State.



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- (2A) The provisions of subsections (2A) to (2D) of section 85 of this Act (which relates to appeals against enforcement notices) shall apply to appeals under this section as they apply to appeals under that section.” ; and
- (c) for subsection (6) there shall be substituted the following subsection—
- “(6) Any listed building consent granted by the Secretary of State under subsection (5) above shall be treated as granted on an application for such consent made under Part I of Schedule 10 to this Act.”.
- 28 In section 94(2) (which relates to the continuing contravention of a listed building enforcement notice), for the words “£50” there shall be substituted the words “£100”.
- 29 In section 98(3) (which relates to the continuing contravention of a tree preservation order), for the words “£5” there shall be substituted the words “£50”.
- 30 In section 100(1) (which relates to the continuing contravention of a discontinuance of use order), for the words “£50” there shall be substituted the words “£100”.
- 31 In section 101(2) (which relates to the continuing contravention of advertisement control regulations), for the words “£5” there shall be substituted the words “£20”.
- 32 In the proviso to subsection (4) of section 136 (which subsection relates to the exclusion of compensation for refusal of planning permission etc. where development is premature by reference to the order of priority in the development plan or any existing deficiency in the provision of water supplies or sewerage services), after the word “if” there shall be inserted the words “the reason or one of the reasons so stated is that that development would be premature by reference to the matters mentioned in paragraph (a) of this subsection and”.
- 33 At the end of section 169 (which relates to the right of an owner or lessee of land to serve a purchase notice following the refusal of planning permission or the imposition of conditions on its being granted), there shall be added the following subsection—
- “(8) The words “planning authority” in subsection (1) above shall in a case where a regional planning authority have dealt with an application by virtue of section 179 of the Local Government (Scotland) Act 1973 (which enables a regional planning authority to have an application for planning permission which has been made to a district planning authority referred to themselves) be construed as meaning that regional planning authority.”.
- 34 After section 229 there shall be inserted the following section—
- “229A Application of sections 219 to 229 in relation to regional planning authorities.**
- Where a regional planning authority have exercised any power, either under Part VI of this Act or under any other enactment, compulsorily to purchase land, the provisions of sections 219 to 229 of this Act shall apply in relation to that exercise of power as they apply in relation to such an exercise by a district planning authority.”
- 35 In section 231(3) (which relates to the validity of certain actions taken by the Secretary of State)—

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- (a) for paragraph (g) there shall be substituted the following paragraph—  
 “(g) any decision of the Secretary of State on an appeal under section 91(2) of this Act against the refusal or partial refusal of an application for an established use certificate ;” ; and
- (b) in paragraph (k), for the word “8” there shall be substituted the word “7”.
- 36 In section 232 (which relates to the procedure for questioning the validity of structure plans etc.), after subsection (2) there shall be inserted the following subsection—  
 “(3) The preceding provisions of this section shall apply, subject to any necessary modifications—  
 (a) to an order under section 198, under section 200 by the Secretary of State, under section 203(1)(a) or under section 224 of this Act as they apply to a structure plan, and as if, in subsection (1) of this section, for the reference to the notice therein mentioned there were substituted a reference either, in the case of sections 198, 200, and 203(1)(a), to the notice required by section 204(6) of this Act, or, in the case of section 224, to the notice required by subsection (5) of that section ; and  
 (b) to an order under section 198A, under section 199, under section 200 by a highway authority, under section 201, or under section 203(1) (b) of this Act as they apply to a structure plan, and as if, in subsection (1) of this section, for the reference to the date on which the notice therein mentioned is first published there were substituted a reference to the date on which the notice required by paragraph 6 of Schedule 18 to this Act is first published in accordance with that paragraph.”.
- 37 At the end of section 254 (which relates to agreements relating to Crown land), there shall be added the following subsection—  
 “(4) In this section “planning authority” includes a regional planning authority.”.
- 38 In subsection (8) of section 262A (the which section relates to the control of demolition in conservation areas)—  
 (a) after the words “section 54(3),” there shall be inserted the word “(4),” ; and  
 (b) after the words “(5) and (6),” there shall be inserted the words “section 54A, section 54B, section 54C, ”.
- 39 In section 262B(1) (which relates to proposals for the preservation and enhancement of conservation areas), for the words “within such period as may from time to time be directed by the Secretary of State” there shall be substituted the words “from time to time ”.
- 40 In section 265—  
 (a) in subsection (1)—  
 (i) in paragraph (b), for the words “60 or 63” there shall be substituted the words “58 or 61 ” ; and  
 (ii) in paragraph (c), for the word “44” there shall be substituted the word “41 ” ; and  
 (b) at the end there shall be added the following subsection—

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- “(9) In subsection (1) (except as regards paragraph (a)) and in subsection (6) of this section “planning authority” includes a regional planning authority.”.
- 41 In section 266(2) (which relates to the wilful obstruction of persons entitled to enter land), for the words “£20” there shall be substituted the words “£200”.
- 42 At the end of section 272 (which relates to combined applications) there shall be added the following subsection—
- “(7) The provisions of subsection (1) of this section shall apply in relation to applications for an approval required by a development order as they apply in relation to applications for planning permission.”.
- 43 In sub-paragraph (2) of paragraph 5 of Schedule 10 (which relates to the time required by the Secretary of State to consider an application for listed building consent referred to him), for the word “or” there shall be substituted the word “of”.

### SCHEDULE 3

Section 66(1).

#### MINOR AND CONSEQUENTIAL AMENDMENTS

##### **Modifications etc. (not altering text)**

- C42** The text of s. 1, 3, Sch. 3, 4 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and, except as specified, does not reflect any amendments or repeals which may have been made prior to 1.2.1991

##### *The Public Libraries Consolidation (Scotland) Act 1887 (c. 42)*

- 1 In section 2 (which makes provision as regards the interpretation of the Act), in the definition of “museum and art gallery authority” for the words “a regional,” there shall be substituted the word “an”.

##### *The Local Government Act 1948 (c. 26)*

- 2 In section 133(3)(ii) (which provides for the interpretation of certain provisions relating to war memorials), for the words “a regional,” there shall be substituted the word “an”.

##### *The Caravan Sites and Control of Development Act 1960 (c. 62)*

- 3 In Schedule 1—
- (a) in paragraph 10(1) (which relates to caravan site licences not being required by travelling showmen during certain periods), for the words “falling between the beginning of October in any year and the end of March” there shall be substituted the words “beginning on or after 20th September in any year and continuing until not later than 16th April” ; and
- (b) in paragraph 11A (which relates to other cases where a caravan site licence is not required), for the word “gipsies” there shall be substituted the words “persons to whom section 24(8A) of this Act applies”.

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*The Trustee Investments Act 1961 (c. 62)*

- 4 In section 7(3) (which interprets the expression “Consolidated Loans Fund” for the purposes of certain provisions relating to statutory investments by persons other than trustees), for the words “section two hundred and seventy-five of the <sup>M39</sup>Local Government (Scotland) Act, 1947” there shall be substituted the words “Schedule 3 to the <sup>M40</sup>Local Government (Scotland) Act 1975”.

**Marginal Citations**

**M39** 1947 c. 43.

**M40** 1975 c. 30.

*The Local Government (Scotland) Act 1966 (c. 51)*

- [<sup>F185</sup> In section 2(2) (which relates to the determination of the estimated aggregate amount of the rate support grants for any year), for the words “section 4” there shall be substituted the words “sections 3 and 4”.]

**Textual Amendments**

**F18** Sch. 3 paras. 5–7 repealed (1.4.1994) by [Abolition of Domestic Rates Etc. \(Scotland\) Act 1987 \(c. 47, SIF 81:2\)](#), s. 34, [Sch. 6](#)

- 6 In section 3 (which provides for the making of rate support grant orders)—
- (a) in subsection (i), for the word “fixed” where it first occurs there shall be substituted the words “determined (or redetermined)” ; and
  - (b) in subsection (3), for the word “Rate” there shall be substituted the words “Subject to section 4 of this Act, rate”.
- 7 In section 4 (which relates to the variation of rate support grant orders), for subsections (2) to (7) there shall be substituted the following subsections—
- “(2) A rate support grant order made by virtue of subsection (1) above with respect to any year may vary matters prescribed by the rate support grant order which first fixed the estimated aggregate amount of the rate support grants for that year.
- (3) A rate support grant order may, if the Secretary of State considers it practicable that it should do so, relate both to an estimated aggregate amount of the rate support grants determined, and to such an amount redetermined, under section 2(2) of this Act.”.

*The Countryside (Scotland) Act 1967 (c. 86)*

- 8 In section 31 (which makes provision as regards the compulsory creation of public paths)—
- (a) in subsection (1), after the words “them and”, there shall be inserted the words “, subject to paragraph 2(1A) of Schedule 3 to this Act, ” ; and
  - (b) in subsection (2) for the words “confirm such an order” there shall be substituted the words “, in a case where his confirmation of the order is required, confirm it”.

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- 9 In section 34 (which makes provision as regards the closure of public paths)—
- (a) in subsection (1), after the words “them and”, there shall be inserted the words “, subject to paragraph 2(1A) of Schedule 3 to this Act, ”; and
  - (b) in subsection (5)—
    - (i) after the words “preliminary to the”, in both places where they occur, there shall be inserted the words “making or ”; and
    - (ii) the words “made under the next following section” shall cease to have effect.
- 10 In section 35 (which makes provision as regards the diversion of public paths)—
- (a) in subsection (1), alter the words “them and”, there shall be inserted the words “, subject to paragraph 2(1A) of Schedule 3 to this Act, ”; and
  - (b) in subsection (3), for the words “confirm the order” there shall be substituted the words “,in a case where his confirmation of the order is required, confirm it ”.
- 11 In Schedule 3 (which comprises provisions as to the making, confirmation, coming into operation and validity of access orders and orders relating to public paths)—
- (a) in paragraph 1(1)—
    - (i) after the word “Before” there shall be inserted the words “an authority make ”;
    - (ii) for the words “is submitted to the Secretary of State for confirmation the authority by whom the order was made” there shall be substituted the word “they ”;
    - (iii) for head (a) there shall be substituted the following head—
      - “(a) stating the general effect of the order and that it is about to be made and, subject to paragraph 2(1A) of this Schedule, submitted for confirmation,”;
    - (iv) in head (b), for the word “copy” there shall be substituted the word “draft ”; and
    - (v) in head (c), after the words “to the” there shall be inserted the word “draft ”;
  - (b) paragraph 1(2) shall cease to have effect (c) in paragraph 1(3), for the words “either of the two foregoing sub-paragraphs” there shall be substituted the words “sub-paragraph (1) above ”;
  - (d) in paragraph 2—
    - (i) at the beginning there shall be added the following sub-paragraph—

“(1A) If an authority have given notice under paragraph 1(1) above as regards a public path creation order, a public path extinguishment order or a public path diversion order, and no representations or objections are duly made in terms of paragraph 1(1)(c) of this Schedule or if any so made are withdrawn, then, subject to the provisions of Part II of this Schedule, the order shall on being made by them have effect without their having to submit it to the Secretary of State and without his confirmation.”;
    - (ii) in sub-paragraph (1) for the word “If”, where it first occurs, there shall be substituted the words “In the case of an order other than one which has effect under sub-paragraph (1A) above, if ”; after

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**Changes to legislation:** *There are currently no known outstanding effects for the Local Government and Planning (Scotland) Act 1982. (See end of Document for details)*

- the words “duly made” there shall be inserted the words “in terms of sub-paragraph (1)(c) of paragraph 1 of this Schedule ” ; and the words “or make and”, as the case may be, shall cease to have effect ;
- (iii) in sub-paragraph (2), the words “or making”, “or make” and “as the case may be,” shall cease to have effect ;
- (iv) in sub-paragraph (3), the words “or make” and “or the draft order prepared by him, as the case may be,” shall cease to have effect ;  
and
- (v) both in the proviso to sub-paragraph (2) and in subparagraph (3), for the words from “in the case” to “undertakers” there shall be substituted the words “where objection is made by statutory undertakers to a public path creation order or a public path diversion order, ” ; and
- (e) in paragraph 4—
- (i) the words “or made”, where they first occur, shall cease to have effect ;
- (ii) after the word “State”, where it first occurs, there shall be inserted the words “or, in the case of an order which has effect under paragraph 2(1A) of this Schedule, has been made by an authority ” ; and
- (iii) the words “or, in the case of an order made by the Secretary of State, the Secretary of State,” and “or the Secretary of State (according as the notice or copy would require to be served by an authority or by the Secretary of State)” shall cease to have effect.

*The Roads (Scotland) Act 1970 (c. 20)*

- 12 In section 21(2) (which makes provision as regards expenses incurred in removing mud deposited on roads by vehicles), after the word “authority” there shall be inserted the words “or by the district council ”.

*The Local Government (Scotland) Act 1973 (c. 65)*

- 13 In section 31(1)(a) (which makes provision as regards disqualification from election to, and membership of, a local authority), after the word “chairman” there shall be inserted the words “or vice-chairman ”.
- 14 In section 38(4)(a) (which provides that allowances are not to be treated as pecuniary receipts for the purposes of disabling members of a local authority from voting on certain matters), after the word “chairman” there shall be inserted the words “or vicechairman”.
- 15 In section 67 (which makes provision as regards the disqualification of members and former members from paid office with a local authority), after the word “chairman” there shall be inserted the words “or vice-chairman ”.
- 16 In section 69 (which makes provision as to subsidiary powers which may be exercised by a local authority), at the end there shall be added the following subsection—
- “(4) The foregoing provisions of this section are subject to those of section 154A(2) and (4) of this Act.”.

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*Changes to legislation: There are currently no known outstanding effects for the Local Government and Planning (Scotland) Act 1982. (See end of Document for details)*

- 17 In section 94—
- (a) in subsection (1B) (which relates to the Secretary of State’s withdrawal of consent to a local authority incurring liability to meet capital expenses and to the variation by him of the terms of such consent), for the words from “where” to the end there shall be substituted the following proviso—
- “:
- Provided that, where the local authority have, by binding contract, incurred any liability to which the consent relates, a withdrawal or variation which would, but for this proviso, have the effect of rendering performance of an obligation under such contract impossible shall apply only to the extent (if any) that it does not have that effect.” ; and
- (b) for paragraph (b) of subsection (3) (which among other things provides for the Secretary of State’s consent being made necessary as regards a local authority incurring liability to meet certain expenses other than capital expenses) there shall be substituted the following paragraph—
- “(b) provide that subsection (1) above shall, in the same manner as it applies to liabilities incurred in relation to capital expenses, apply to such other liabilities incurred in relation to a lease (or other contract, or arrangement, of a like nature) as may be specified in the order and, for the purposes of such application, prescribe a method for assigning a capital value to those other liabilities and prescribe circumstances in which such other liabilities shall be taken to arise.”.

18–20 ..... F19

**Textual Amendments**

**F19** Sch. 3 paras. 18–20 repealed by [Abolition of Domestic Rates Etc. \(Scotland\) Act 1987 \(c. 47, SIF 81:2\)](#), s. 34, [Sch. 6](#)

- 21 In section 163(3) (which designates the local authority for the purposes of the Public Libraries Consolidation (Scotland) Act 1887 in the application of that Act to museums and art galleries), for the words from “a local authority” to the end there shall be substituted the words “an islands or district council.”.
- 22 In section 172(3) (which makes provision as regards interpretation), after the word “provided” there shall be inserted the words “or unless the context otherwise requires”.
- 23 In section 176 (which makes provision as regards local plans)—
- (a) in subsection (3), at the end there shall be added the words “or withdrawn” ; and
- (b) in subsection (5), after the word “withheld” there shall be inserted the words “or withdrawn”.
- 24 For section 179 (which makes provision as regards applications for planning permission being referred to a regional planning authority instead of being dealt with by a district planning authority) there shall be substituted the following section—

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### **“179 Reference of applications to regional planning authority.**

- (1) A regional planning authority may, in the circumstances specified in subsection (2) below but subject to any regulations made under subsection (7) below, or to any such development order as is referred to in the said subsection (7), give to any district planning authority within the district of the regional planning authority directions requiring any such application as is mentioned in section 23(2) of the Act of 1972 to be referred to them instead of being dealt with by the district planning authority.
- (2) The circumstances referred to in subsection (1) above are both that the application concerned is not subject to a direction given by the Secretary of State under section 32 of the Act of 1972 and that—
  - (a) the proposed development does not conform to a structure plan approved by the Secretary of State ; or
  - (b) the proposed development raises a major planning issue of general significance to the district of the regional planning authority.
- (3) Subject to subsection (4) below, any application in respect of which directions under subsection (1) above have been given shall be referred to the regional planning authority accordingly.
- (4) A district planning authority may, subject to any regulations made under subsection (7) below, or to any such development order as is referred to in the said subsection (7), appeal to the Secretary of State against any directions given under subsection (1) above to them and the Secretary of State (whose decision shall be final) may, under section 177(4) of this Act, determine the appeal as if it were a matter arising under section 176(5) of this Act.
- (5) Where an application is referred to a regional planning authority under this section, sections 21(2)(b), 23(1)(f) and (h), 24(2B), (2C), (2D) and (4), 26, 27(1), 27A, 33, 35, 54(3) and (subject to subsection (6) below) 34 of the Act of 1972 shall apply, with any necessary modifications, as if the application had been made to the regional planning authority:  
 Provided that, in the proviso to the said section 27(1) as so applied, the words “another planning authority” shall be construed as meaning a regional planning authority, a general planning authority and any district planning authority outwith the district of the regional planning authority to which the application has been referred.
- (6) In the application of the said section 34 provided for in subsection (5) above, for the reference in that section to such period as may be prescribed by the development order there shall be substituted a reference to a period of 3 months, or such other period as a development order may prescribe, from the date when the application is referred to a regional planning authority.
- (7) The Secretary of State may by regulations made under this subsection, or may in a development order, prescribe the time limits within which—
  - (a) a regional planning authority may exercise their powers under subsection (1) above ;
  - (b) a district planning authority may appeal under subsection (4) above ;
 or



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**Changes to legislation:** *There are currently no known outstanding effects for the Local Government and Planning (Scotland) Act 1982. (See end of Document for details)*

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- (c) a district planning authority shall forward to the regional planning authority a copy of any application (together with copies of all the certificates, plans, and other supporting documents relating thereto) required by the latter authority by virtue of subsection (1) above.”.
- 25 In section 181(2) (which, among other things, empowers a regional planning authority to make an order revoking or modifying planning permission granted by a district planning authority where the regional planning authority are of the opinion that an approved structure plan would otherwise be materially prejudiced), for the words from “shall” to the end there shall be substituted the words—
- “and of section 153 or 159 of the Act of 1972 (compensation in respect of orders under section 42 or 49) shall, as the case may be and with any necessary modifications, apply to the regional planning authority in relation to such an order made by the regional planning authority as they would apply to the district planning authority in relation to such an order made by the district planning authority.”.
- 26 In Schedule 7 (which relates to meetings and proceedings of local authorities)—
- (a) for sub-paragraph (2) of paragraph 3 there shall be substituted the following sub-paragraphs—
- “(2) If the chairman is absent from a meeting of the council, the vice-chairman shall preside.
- (3) If the chairman and vice-chairman are absent from a meeting of the council, another member of the council chosen by the members present shall preside.” ; and
- (b) in paragraph 10—
- (i) for sub-paragraph (1) there shall be substituted the following sub-paragraph—
- “(1) Paragraphs 5 to 9 above (except paragraph 7(2)) shall apply in relation to—
- (a) a committee (including a joint committee) of a council and that committee’s members ; or
- (b) a sub-committee of any such committee of a council and that sub-committee’s members,
- as those paragraphs apply in relation to a council and that council’s members.” ; and
- (ii) in sub-paragraph (2), after the word “members” there shall be inserted the words “recorded under paragraph 6 above as having been ”.
- 27 In Column 2 of Part I of Schedule 22 (which relates to regional planning functions), after the words “Sections 4 to 8.” there shall be added the words—
- “Sections 14 to 18 and 265, in so far as they relate to structure plans.”.
- 28 In Column 2 of Part 11 of Schedule 22 (which relates to district planning functions)
- 
- (a) after the words “Sections 9 to 13.” there shall be added the words—
- “Sections 14 to 18 and 265, in so far as they relate to local plans.” ; and

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- (b) for the words “Section 199” there shall be substituted the words “Sections 198A and 199”.

*The Housing (Scotland) Act 1974 (c. 45)*

29–33 ..... F20

**Textual Amendments**

**F20** Sch. 3 paras. 29–33 repealed by Housing (Scotland) Act 1987 (c. 26, SIF 61), ss. 335, 339(3), Sch. 24

*The Safety of Sports Grounds Act 1975 (c. 52)*

- 34 In section 11 (which relates to powers of entry in respect of sports grounds), at the end of paragraph (b) there shall be inserted the word “or”.

*The Electricity (Scotland) Act 1979 (c. 11)*

35, 36. .... F21

**Textual Amendments**

**F21** Sch. 3 paras. 35, 36 repealed by Electricity Act 1989 (c. 29, SIF 44:1), s. 112(3)(4), Sch. 17 para. 35(1), Sch. 18

*The Education (Scotland) Act 1980 (c. 44)*

- 37 In section 1 (which imposes a duty on education authorities to secure the provision of school and further education)—

- (a) in subsection (3)—
- (i) for the words “—(a) shall” there shall be substituted the words “shall for the purposes of their duty under subsection (1) above—
- (a) “; and
- (ii) in paragraph (b), the words “without prejudice to the duty imposed on them by subsection (1) above, shall” shall cease to have effect ; and
- (b) in subsection (5)(b)(iii)—
- (i) after the words “either as” there shall be inserted the words “voluntary organised activities designed to promote the educational development of persons taking part therein or as” ; and
- (ii) the words “or as organised voluntary leisure-time occupation” shall cease to have effect.

- 38 In section 6(1) (which among other things empowers for certain purposes an education authority to establish, manage and maintain social, cultural and recreative facilities), after the word “securing” there shall be inserted the words “,under section 1(3) of this Act,”.

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*Changes to legislation:* There are currently no known outstanding effects for the Local Government and Planning (Scotland) Act 1982. (See end of Document for details)

*The Tenants' Rights, Etc. (Scotland) Act 1980 (c. 52)*

39, 40. .... F22

**Textual Amendments**

**F22** Sch. 3 paras. 39, 40 repealed by [Housing \(Scotland\) Act 1987 \(c. 26, SIF 61\)](#), ss. 335, 339(3), [Sch. 24](#)

*The Local Government, Planning and Land Act 1980 (c. 65)*

- 41 In section 70 (which provides for grants in respect of caravan sites for gipsies)—
- (a) in subsection (1), for the word “gipsies” there shall be substituted the words “persons to whom subsection (8A) of that section applies ” ; and
  - (b) in subsection (4), the definition of “gipsy” shall cease to have effect.
- 42 In paragraph 33 of Schedule 32 (which makes provision as regards rates in Scotland in respect of lands and heritages in an enterprise zone)—
- (a) at the end of sub-paragraph (1) there shall be added the following proviso—  
“Provided that where the lands and heritages are situated only partially within any one enterprise zone their value shall, for the purpose of determining what rates (if any) are payable in respect of the lands and heritages, be apportioned between so much of them as lies within, and so much of them as lies outwith, that zone as if—
    - (i) the apportionment were by reason of their extending into two or more rating areas ; and
    - (ii) the boundary of the enterprise zone were the boundary of such an area”; and
  - (b) at the end of sub-paragraph (4) there shall be added the words “; and “rating area” means the area of a rating authority. ”.

*The Local Government (Miscellaneous Provisions) (Scotland) Act 1981 (c. 23)*

43 ..... F23

**Textual Amendments**

**F23** Sch. 3 para. 43 repealed by [Abolition of Domestic Rates Etc. \(Scotland\) Act 1987 \(c. 47, SIF 81:2\)](#), s. 34, [Sch. 6](#)

SCHEDULE 4

Section 66(2).

REPEALS

**Modifications etc. (not altering text)**

**C43** The text of s. 1, 3, Sch. 3, 4 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and, except as specified, does not reflect any amendments or repeals which may have been made prior to 1.2.1991

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*Status: Point in time view as at 01/02/1991.*

**Changes to legislation:** *There are currently no known outstanding effects for the Local Government and Planning (Scotland) Act 1982. (See end of Document for details)*

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## PART I

### GENERAL

Chapter	Short title	Extent of repeal
41 & 42 Vict. c. 8	The Public Parks (Scotland) Act 1878.	The whole Act.
55 & 56 Vict. c. 55.	The Burgh Police (Scotland) Act 1892.	Section 107 in so far as relating to streets and footways. Section 110. Section 112. Section 116. Section 277. Section 288. Sections 307 and 308.
60 & 61 Vict. c. 38.	The Public Health (Scotland) Act 1897.	Section 29.  In section 39, the first paragraph.
3 Edw. 7 c. 33.	The Burgh Police (Scotland) Act 1903.	Section 44.
1 Edw. 8 & 1 Geo. 6 c. 46.	The Physical Training and Recreation Act 1937.	Section 4(1) to (4).  Section 5. Section 7. Section 10(4) to (7) and (11).
8 & 9 Geo. 6. c. 43.	The Requisitioned Land and War Works Act 1945.	Section 52.
10 & 11 Geo. 6. c. 22.	The Civic Restaurants Act 1947.	The whole Act.
11 & 12 Geo. 6. c. 17. The Requisitioned Land and War Works Act 1948.	In the Schedule, paragraph 10.	
4 & 5 Eliz. 2. c. 30.	The Food and Drugs (Scotland) Act 1956.	In section 26(3), the words “regional councils”.
6 & 7 Eliz. 2. c. 36.	The Physical Training and Recreation Act 1958.	The whole Act.
8 & 9 Eliz. 2. c. 62.	The Caravan Sites and Control of Development Act 1960.	Section 32(1)(h)(iii).

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1966 c. 51.	The Local Government (Scotland) Act 1966.	<p>In section 5(1), the words from “; and if” to the end ; and in paragraph (c) the words “subject to subsection (1A)(b) below,”.</p> <p>In Part II of Schedule 1, in paragraph 2 the words “any provision made by virtue of section 4(5) of this Act and to” ; and in paragraph 3, in sub-paragraph (2)(b), the words “subject to any provision made by virtue of section 4(5) of this Act”, and sub-paragraph (5).</p>
1967 c. 86.	The Countryside (Scotland) Act 1967.	<p>In section 14(5), the words “or make”.</p> <p>In section 34(5), the words “made under the next following section”</p> <p>Section 35A.</p> <p>In Schedule 3, paragraph 1(2); in paragraph 2, in sub-paragraph (1) the words “or make” and “ , as the case may be,” , in sub-paragraph (2) the words “or making”, “or make” and “ , as the case may be,” , and in sub-paragraph (3) the words “or make” and “or the draft order prepared by him, as the case may be,” ; and in paragraph 4, the words “or made” where they first occur, the words “or, in the case of an order made by the Secretary of State, the Secretary of State,” and the words “or the Secretary of State (according as the notice or copy would require to be served by an authority or by the Secretary of State)”.</p>
1968 c. 49.	The Social Work (Scotland) Act 1968.	Section 85.
1970 c. 40.	The Agriculture Act 1970.	Section 95. Section 96.

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**Changes to legislation:** *There are currently no known outstanding effects for the Local Government and Planning (Scotland) Act 1982. (See end of Document for details)*

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1972 c. 52.

The Town and Country  
Planning (Scotland) Act  
1972.

In section 12, in  
subsection (1), the words  
“section 10 of this Act and” ;  
and in subsection (2), the  
word “generally”.

In section 26(2), the words  
“for planning permission for  
development of a class”.

Section 31(1).

In section 32(4), the words  
“for planning permission” in  
both places where they occur,  
and the words “(1) to (3)”.

In section 37(1), the words  
“other than the Secretary of  
State”.

Section 54(2).

Section 61(7).

Section 84(6).

In section 85(8), the words  
“or 80”.

In section 92(1), the words  
“subject to any directions  
given by the Secretary of  
State”.

Section 93(5)(b).

In section 154(2), the words  
“(except subsection (5)(b)  
thereof”.

Section 164(6).

Section 167C(2)(b).

In section 215(1), the words  
“other than the Secretary of  
State”.

In section 231, in  
subsection (1)(b), the words  
“except section 203(1)(a)”;  
and in subsection (3), in  
paragraph (a), the words “for  
planning permission,” and in  
paragraph (f), the words “(1)  
(a), (f) or (g)”.

Section 262(2) and (3).

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**Changes to legislation:** There are currently no known outstanding effects for the Local Government and Planning (Scotland) Act 1982. (See end of Document for details)

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		<p>In section 262A, subsection (3); and, in subsection (4), the words “or to an individual building so specified”.</p> <p>Section 262B(3).</p> <p>In Schedule 10, in paragraph 11(1), the words from “; and (b)” to the end of paragraph (b).</p>
1973 c. 65.	The Local Government (Scotland) Act 1973.	<p>In section 49(2)(a), the words “or of any of its committees or sub-committees”.</p> <p>In section 55, the word “Regional”.</p> <p>Section 91.</p> <p>Section 137(2).</p> <p>Section 139.</p> <p>Section 158.</p> <p>Section 162.</p> <p>Section 164.</p> <p>Section 178.</p> <p>In section 216, subsections (2), (4) and (5); and in subsection (3) the words “or (2)”.</p> <p>Sections 218 to 221.</p> <p>In section 224, subsections (1) to (4); and in subsection (6) the words “this section and in”.</p> <p>In Schedule 22, paragraphs 5, 8 and 9 of Part II.</p> <p>In Schedule 23, paragraph 2(a).</p>
1974 c. 40.	The Control of Pollution Act 1974.	<p>Sections 22 and 23.</p> <p>Schedule 4, in so far as relating to section 110, 112 or 116 of the Burgh Police (Scotland) Act 1892 or to section 39 of the Public Health (Scotland) Act 1897.</p>

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1975 c. 30.	The Local Government Scotland Act 1975.	In Schedule 1, in paragraph 2, sub-paragraph (1)(b) and the word “, Corporation” in each of sub-paragraphs (1) (iii) and (2) ; and in each of paragraphs 2A(2), 3(2), 4(2) and 4A the word “, (b)”.
1979 c. 11.	The Electricity (Scotland) Act 1979.	In Schedule 4, in each of paragraphs 1, 3 and 6 the words “Amenity Committee and the”; and paragraph 5.
1980 c. 44.	The Education (Scotland) Act 1980.	In section 1, in subsection (3) (b) the words “without prejudice to the duty imposed on them by subsection (1) above, shall”; and in subsection (5)(b)(iii) the words “or as organised voluntary leisure-time occupation”.
1980 c. 45.	The Water (Scotland) Act 1980.	In paragraph 7(5) of Schedule 3, the word “either”. Paragraph 23 of Schedule 4.
1980 c. 52.	The Tenants’ Rights, Etc. (Scotland) Act 1980.	In section 1(1), the word “tenancy”. In section 4(3), the words “incurred in connection with the sale of the dwelling-house”.
1980 c. 65.	The Local Government, Planning and Land Act 1980.	In section 70(4), the definition of “gipsy” and the word “and” immediately preceding that definition.
1981 c. 44.	The Countryside (Scotland) Act 1981.	Section 5.

## PART II

### POWERS OF ENTRY

Chapter	Short title	Extent of repeal
...	...	...
F24	F24	F24 In section 10(3), the words “the Secretary of State or” and the words “,as the case may be”.



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**Changes to legislation:** *There are currently no known outstanding effects for the Local Government and Planning (Scotland) Act 1982. (See end of Document for details)*

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1968 c. 49.	The Social Work (Scotland) Act 1968.	Section 6(1)(d).
1975 c. 52.	The Safety of Sports Grounds Act 1975.	In section 11, the words “or (d) the Secretary of State,”.
⋮ F24	⋮ F24	⋮ F24
1978 c. 3.	The Refuse Disposal (Amenity) Act 1978.	In section 8(1), the words “the Secretary of State or”.

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#### Textual Amendments

**F24** Entries repealed by [Enterprise and New Towns \(Scotland\) Act 1990 \(c. 35, SIF 64\)](#), s. 38(2), Sch. 5 Pts. I, III

**Status:**

Point in time view as at 01/02/1991.

**Changes to legislation:**

There are currently no known outstanding effects for the Local Government and Planning (Scotland) Act 1982.