



# Local Government and Planning (Scotland) Act 1982

## 1982 CHAPTER 43

### PART II

#### LOCAL AUTHORITY FUNCTIONS

<sup>F1</sup>6 .....

#### Textual Amendments

<sup>F1</sup> S. 6 repealed (1.4.1996) by 1994 c. 39, s. 180(2), Sch. 14; S.I. 1996/323, art. 4(1)(d), Sch. 2

<sup>F2</sup>7 .....

#### Textual Amendments

<sup>F2</sup> S. 7 repealed (1.4.1996) by 1994 c. 39, s. 180(2), Sch. 14; S.I. 1996/323, art. 4(1)(d), Sch. 2

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

Every local authority [<sup>F3</sup>(a)] shall have power and shall be deemed always to have had power to enter into arrangements with . . . <sup>F4</sup>the Secretary of State under the provisions of the Employment and Training Act <sup>M1</sup>1973. [<sup>F5</sup>and

(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.).]

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

#### Textual Amendments

- F3** 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**
- F4** Words repealed by virtue of [Employment Act 1989 \(c. 38, SIF 43:1\)](#), s. 29(4), **Sch. 7 Pt. I**
- F5** 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

- M1** [1973 c.50\(43:1\)](#).

### [<sup>F6</sup>9] **Part II of Schedule 1 to continue to have effect.**

Part II of Schedule 1 to this Act (amendment of certain enactments relating to the countryside) shall continue to have effect.]

#### Textual Amendments

- F6** [S. 9](#) substituted (1.4.1996) by [1994 c. 39](#), s. 180(1), **Sch. 13 para. 128(2)**; [S.I. 1996/323](#), **art. 4(1)(c)**

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

In section 21 (1) of the <sup>M2</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)

- C1** 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

- M2** [1949 c. 97](#).

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

(1) In section 90 of the <sup>M3</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—

“:

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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—

**“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)**

**C2** 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**

**M3** 1973 c. 65.

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

In section 34(1) of the <sup>M4</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”.

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

- C3** 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** 1968 c. 73

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

- (1) In section 24 of <sup>M5</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 (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>M6</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)

- C4** 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

- M5** 1960 c. 62.  
**M6** 1973 c. 65.

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**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, [<sup>F7</sup>a local authority] 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>M7</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 [<sup>F8</sup>Scottish Water], no duty is imposed by subsection (1) above and no power conferred by sections 15 to 18 of this Act.

<sup>F9</sup>(3) .....

**Textual Amendments**

- F7** Words in s. 14(1) substituted (1.4.1996) by 1994 c. 39, s. 180(1), **Sch. 13 para. 128(3)(a)**; S.I. 1996/323, **art. 4(1)(c)**
- F8** Words in s. 14(2) substituted (1.4.2002) by 2002 asp 3, s. 71, **Sch. 7 para. 12(a)**; S.S.I. 2002/118, **art. 2(3)**
- F9** S. 14(3) repealed (1.4.2002) by 2002 asp 3, art. 71, **Sch. 7 para. 12(b)**; S.S.I. 2002/118, **art. 2(3)**

**Marginal Citations**

- M7** 1975 c. 23.

**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) [<sup>F10</sup>A local authority] 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.

**Textual Amendments**

- F10** Words in s. 15(2) substituted (1.4.1996) by 1994 c. 39, s. 180(1), **Sch. 13 para. 128(4)**; S.I. 1996/323, **art. 4(1)(c)**

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

- C5** S. 15(2) extended (with modifications) (8.9.2000) by 2000 asp 10, s. 9(2)(b), **Sch. 3 para. 6** (with s. 32); S.S.I. 2000/312, **art. 2**

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## 16 Provisions supplementary to section 15.

- (1) Without prejudice to the generality of their powers under section 15 of this Act, [<sup>F11</sup>a local authority] may, for the purposes of their functions under subsection (2) of that section—
- (a) provide entertainment of any kind;
  - [<sup>F12</sup>(b) maintain a body for the promotion of a recreational, sporting, cultural or social activity;]
  - (c) permit any facility provided by the [<sup>F13</sup>authority] 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 [<sup>F13</sup>authority];
  - (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;
  - (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 [<sup>F13</sup>authority] may provide trophies and prizes.
- (2) Without prejudice to the generality of their powers under section 15 of this Act, [<sup>F14</sup>a local authority] 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

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promoting such activities) if the <sup>F15</sup>authority] 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>M8</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.

#### Textual Amendments

- F11** Words in s. 16(1) substituted (1.4.1996) by 1994 c. 39, s. 180(1), **Sch. 13 para. 128(5)(a)(i)**; S.I. 1996/323, **art. 4(1)(c)**
- F12** S. 16(1)(b) substituted (1.4.1996) by 1994 c. 39, s. 180(1), **Sch. 13 para. 128(5)(a)(ii)**; S.I. 1996/323, **art. 4(1)(c)**
- F13** Words in s. 16(1)(c)(g)(ii)(k)(ii) substituted (1.4.1996) by 1994 c. 39, s. 180(1), **Sch. 13 para. 128(5)(a)(iii)**; S.I. 1996/323, **art. 4(1)(c)**
- F14** Words in s. 16(2) substituted (1.4.1996) by 1994 c. 39, s. 180(1), **Sch. 13 para. 128(5)(b)(i)**; S.I. 1996/323, **art. 4(1)(c)**
- F15** Word in s. 16(2) substituted (1.4.1996) by 1994 c. 39, s. 180(1), **Sch. 13 para. 128(5)(b)(ii)**; S.I. 1996/323, **art. 4(1)(c)**

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

- C6** S. 16 extended (8.9.2000) by 2000 asp 10, s. 9(2)(b), **Sch. 3 para. 6(1)** (with s. 32); S.S.I. 2000/312, **art. 2**

#### Marginal Citations

- M8** 1964 c. 40.

### <sup>F16</sup>17 Power of local authority to contribute towards provision of cultural activities and facilities.

- (1) A local authority may contribute by way of grant or loan towards the expenses of any organisation or body which, in the opinion of the authority, provides or promotes the provision of cultural activities or facilities whether inside or outside the area of the local authority concerned.
- (2) Without prejudice to the generality of subsection (1) above, the power conferred by that subsection includes power to make such contribution as will support or promote music, theatre, dance, opera, visual art or other art forms and museums and galleries.]

#### Textual Amendments

- F16** S. 17 substituted (1.4.1996) by 1994 c. 39, s. 180(1), **Sch. 13 para. 128(6)**; S.I. 1996/323, **art. 4(1)(c)**

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

- C7 S. 17 extended (with modifications) (8.9.2000) by 2000 asp 10, s. 9(2)(b), **Sch. 3 para. 6** (with s. 32); S.S.I. 2000/312, **art. 2**

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

- (1) Subject to subsection (3) below, [<sup>F17</sup>a local authority] 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 [<sup>F18</sup>authority] 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>F19</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 [<sup>F20</sup>local authority] commits an offence, and is liable on summary conviction to a fine not exceeding [<sup>F19</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 [<sup>F21</sup>local authority] would relate—
- (a) to a facility; or
  - (b) to land or premises,
- which the [<sup>F22</sup>authority] 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

- F17 Words in s. 18(1) substituted (1.4.1996) by 1994 c. 39, s. 180(1), **Sch. 13 para. 128(7)(a)(i)**; S.I. 1996/323, **art. 4(1)(c)**
- F18 Word in s. 18(1) substituted (1.4.1996) by 1994 c. 39, s. 180(1), **Sch. 13 para. 128(7)(a)(ii)**; S.I. 1996/323, **art. 4(1)(c)**
- F19 Words substituted by virtue of **Criminal Procedure (Scotland) Act 1975** (c. 21, SIF 39:1), **s. 289G**
- F20 Words in s. 18(2)(b) substituted (1.4.1996) by 1994 c. 39, s. 180(1), **Sch. 13 para. 128(7)(b)**; S.I. 1996/323, **art. 4(1)(c)**
- F21 Words in s. 18(3) substituted (1.4.1996) by 1994 c. 39, s. 180(1), **Sch. 13 para. 128(7)(c)(i)**; S.I. 1996/323, **art. 4(1)(c)**



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**F22** Word in s. 18(3) substituted (1.4.1996) by 1994 c. 39, s. 180(1), Sch. 13 para. 128(7)(c)(ii); S.I. 1996/323, art. 4(1)(c)

## 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 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>M9</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

**M9** 1973 c. 65.

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

In the <sup>M10</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—

- (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 ”.

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**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**

- M10** 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>M11</sup>Food and Drugs (Scotland) Act 1956 except that they shall retain such powers and 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

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“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)**

**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**

**M11** [1956 c.30.](#)

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

In section 55 of the <sup>M12</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)**

**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**

**M12** [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) [<sup>F23</sup>A local authority] 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>F24</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>M13</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.

*Status: Point in time view as at 01/09/2009.*

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

#### Textual Amendments

- F23** Words in s. 24(1) substituted (1.4.1996) by 1994 c. 39, s. 180(1), **Sch. 13 para. 128(8)**; S.I. 1996/323, **art. 4(1)(c)**
- F24** Words substituted by **Housing (Scotland) Act 1987 (c. 26, SIF 61)**, ss. 335, 339(2), **Sch. 23 para. 27**

#### Marginal Citations

- M13** 1978 c. 49.

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

- (1) <sup>F25</sup> .....
- (2) [<sup>F26</sup>A local authority] 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 land and may enter into an agreement with any such person for the payment by him of charges in respect of the cleansing.
- [<sup>F27</sup>(3) In subsection (2) above “cleansing” means such cleansing as appears to the [<sup>F28</sup>local authority] 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

- F25** S. 25(1) repealed (1.4.1991) by **Environmental Protection Act 1990 (c. 43, SIF 46:4)**, s. 162(2), **Sch. 16 Pt. IV**, S.I. 1991/1042, art.2
- F26** Words in s. 25(2) substituted (1.4.1996) by 1994 c. 39, s. 180(1), **Sch. 13 para. 128(9)(a)**; S.I. 1996/323, **art. 4(1)(c)**
- F27** S. 25(3) substituted (1.4.1991) by **Environmental Protection Act 1990 (c. 43, SIF 46:3)**, s. 162(1), **Sch. 15 para. 20**; S.I. 1991/1042, **art. 2**
- F28** Words in s. 25(3) substituted (1.4.1996) by 1994 c. 39, s. 180(1), **Sch. 13 para. 128(9)(b)**; S.I. 1996/323, **art. 4(1)(c)**

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

- C11** 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) [<sup>F29</sup>A local authority] 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.

*Status: Point in time view as at 01/09/2009.*

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

### Textual Amendments

**F29** Words in s. 26(1) substituted (1.4.1996) by 1994 c. 39, s. 180(1), **Sch. 13 para. 128(10)**; S.I. 1996/323, **art. 4(1)(c)**

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

- (1) [<sup>F30</sup>A local authority] 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
    - (iii) premises for supplying food and refreshments (including [<sup>F31</sup>alcohol, within the meaning given by section 2 of the Licensing (Scotland) Act 2005]);
  - (b) impose—
    - (i) such conditions for the use of the market or market buildings by stallholders or other persons as the [<sup>F32</sup>authority] 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>F33</sup>level 2 on the standard scale].
- (3) [<sup>F34</sup>A local authority] 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) <sup>F35</sup> . . ., 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

**F30** Words in s. 27(1) substituted (1.4.1996) by 1994 c. 39, s. 180(1), **Sch. 13 para. 128(11)(a)(i)**; S.I. 1996/323, **art. 4(1)(c)**

**F31** Words in s. 27(1)(a)(iii) substituted (1.9.2009 at 5.00 a.m.) by The Licensing (Scotland) Act 2005 (Consequential Provisions) Order 2009 (S.S.I. 2009/248), art. 1(1), **Sch. 1 para. 3** (with art. 3)

*Status: Point in time view as at 01/09/2009.*

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

- F32** Words in s. 27(1)(b)(i) substituted (1.4.1996) by 1994 c. 39, s. 180(1), **Sch. 13 para. 128(11)(a)(ii)**; S.I. 1996/323, **art. 4(1)(c)**
- F33** Words substituted by virtue of **Criminal Procedure (Scotland) Act 1975 (c. 21, SIF 39:1), s. 289G**
- F34** Words in s. 27(3) substituted (1.4.1996) by 1994 c. 39, s. 180(1), **Sch. 13 para. 128(11)(b)**; S.I. 1996/323, **art. 4(1)(c)**
- F35** Words in s. 27(4) repealed (1.4.1996) by 1994 c. 39, s. 180(1)(2), Sch. 13 para. 128(11)(c), **Sch. 14**; S.I. 1996/323, **art. 4(1)(c)(d)**, Sch. 2

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

[<sup>F36</sup>A local authority]—

- (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 [<sup>F37</sup>authority] but is open to public view, may for the purposes of securing its maintenance or illumination enter into an agreement with its owner.

### **Textual Amendments**

- F36** Words in s. 28 substituted (1.4.1996) by 1994 c. 39, s. 180(1), **Sch. 13 para. 128(12)(a)**; S.I. 1996/323, **art. 4(1)(c)**
- F37** Word in s. 28(b) substituted (1.4.1996) by 1994 c. 39, s. 180(1), **Sch. 13 para. 128(12)(b)**; S.I. 1996/323, **art. 4(1)(c)**

## **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>F38</sup>a local authority may, with the consent of the roads authority], 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>F39</sup>(2) In subsection (1) above, “footway” and “roads authority” have the same meanings as in the Roads (Scotland) Act 1984.]

*Status: Point in time view as at 01/09/2009.*

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

**Textual Amendments**

- F38** Words in s. 30(1) substituted (1.4.1996) by 1994 c. 39, s. 180(1), **Sch. 13 para. 128(13)**; S.I. 1996/323, **art. 4(1)(c)**
- F39** 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>M14</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)**

- 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**

- M14** 1923 c 18.

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

For section 56(2) of the <sup>M15</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—

- “(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**

- M15** 1973 c. 65.

<sup>F40</sup>**33** .....

**Textual Amendments**

- F40** S. 33 repealed (1.4.1996) by 1994 c. 39, s. 180(2), **Sch. 14**; S.I. 1996/323, **art. 4(1)(d)**



*Status: Point in time view as at 01/09/2009.*

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

<sup>F41</sup>34 .....

**Textual Amendments**

**F41** S. 34 repealed (1.4.1996) by 1994 c. 39, s. 180(2), **Sch. 14**; S.I. 1996/323, art. 4(1)(d), **Sch. 2**

**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.

**Status:**

Point in time view as at 01/09/2009.

**Changes to legislation:**

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