



# Local Government and Planning (Scotland) Act 1982

1982 CHAPTER 43

## PART IV **S**

MISCELLANEOUS AND SUPPLEMENTARY

### *Miscellaneous*

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

In section 7 of the <sup>M1</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,

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in respect of which the advance is made.”.

**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 II, Sch. 2 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.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**

- M1** 1964 c. 67

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

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 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 ;

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- (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

<sup>F1</sup>(c) .....

**Textual Amendments**

**F1** S. 50(c) repealed (1.4.1996) by 1994 c. 39, s. 180(2), **Sch. 14**; S.I. 1996/323, **art. 4(1)(d)**, Sch. 2

**51**— ..... <sup>F2</sup> **S**  
**55.**

**Textual Amendments**

**F2** Ss. 51–55. repealed by Housing (Scotland) Act 1987 (c. 26, SIF 61), ss. 335, 339(3), **Sch. 24**

<sup>F3</sup>**56** ..... **S**

**Textual Amendments**

**F3** S. 56 repealed (1.4.1996) by 1994 c. 39, s. 180(2), **Sch. 14**; S.I. 1996/323, **art. 4(1)(d)**, **Sch. 2**

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

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)**

- 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.

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

In paragraph 7(5) of Schedule 3 to the <sup>M2</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.”.

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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**

- M2** 1980 c. 45.

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

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)**

- 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.

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

(1) Under the <sup>M3</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)**

**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.

**Marginal Citations**

**M3** 1973 c. 65.

**61 Abolition of Amenity Committee. S**

The Amenity Committee appointed under subsection (2) of section 9 of the <sup>M4</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>M5</sup>Electricity (Scotland) Act 1979) is hereby abolished.

**Marginal Citations**

**M4** 1943 c. 32.

**M5** 1979 c. 11.

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

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. S**

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. S**

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. S**

(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. S**

- (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)**

- 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.

**67 Interpretation. S**

In this Act, unless the context otherwise requires—

[<sup>F4</sup> “local authority” means a council constituted under section 2 of the Local Government etc. (Scotland) Act 1994]

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

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

**Textual Amendments**

- F4** Definition in s. 67 inserted (1.4.1996) by 1994 c. 39, s. 180(1), **Sch. 13 para. 128(14)**; S.I. 1996/323, **art. 4(1)(c)**

**68 Expenses. S**

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. S**

- (1) This Act may be cited as the Local Government and Planning (Scotland) Act 1982.



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(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.

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

C7 Power of appointment conferred by s. 69(2) fully exercised: [S.I. 1982/1137](#), 1397, 1984/239

**Changes to legislation:**

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