



Local Government and Planning (Scotland) Act 1982

1982 CHAPTER 43

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 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)(c) 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.”.

50 Power of local authority to 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 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 ".

51 Improvement grants for the disabled

In the Housing (Scotland) Act 1974—

- (a) after subsection (1) of section 7 (which requires local authorities to make improvement grants in certain circumstances) there shall be inserted the following subsections—
 - “(1AA) Where an application in that behalf is made to a local authority in relation to any house, an improvement grant shall be made under subsection (1) above in respect of the cost of executing works required for the house to be provided with a standard amenity, notwithstanding that the house already has such a standard amenity, if in the opinion of the local authority the additional standard amenity to be provided is essential to the needs of a disabled occupant.
 - (1AB) In this section " disabled occupant" has the same meaning as in section 1 of this Act.”; and
- (b) in subsection (5) of section 5 (which relates to the amount of improvement grants) after the words " section 7 thereof " there shall be inserted the words " or in respect of works for the benefit of a disabled occupant (within the meaning of section 1 of this Act) ".

52 Grants where local authorities require provision of fire escapes for houses in multiple occupation

- (1) After section 10A of the Housing (Scotland) Act 1974 there shall be inserted the following section—

“10B Grants for fire escapes for houses in multiple occupation.

- (1) Subject to the provisions of this section, where a local authority have served on any person, other than a public body, a notice under section 107 of the Housing (Scotland) Act 1966 (which empowers a local authority to require the provision of a means of escape from fire in a house in multiple occupation) they shall make a grant to that person in respect of—
 - (a) the works specified in the notice ; and
 - (b) any other works required in connection with the works so specified, if an application for such grant is made by him in accordance with the provisions of this section and approved by the local authority.
- (2) A local authority shall not approve an application under this section unless they are satisfied that at the time of completion of the works to which the application relates the house will be in reasonable repair (disregarding the state of internal decorative repair) having regard to its age, character and location.

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- (3) Where a local authority approve an application under this section they shall determine the maximum amount of expenses which they think proper to be incurred for the relevant works; but so much of such amount as relates to works referred to in—
- (a) paragraph (a) of subsection (1) above shall not exceed £6,750 or such other amount as may be prescribed;
 - (b) paragraph (b) of that subsection shall not exceed £2,500 or such other amount as may be prescribed.
- (4) Subject to subsection (5) below, the amount of grant payable under subsection (1) above in relation to any application shall be 75 per cent, of the maximum amount determined under subsection (3) above in relation thereto or such other percentage of that maximum amount as may be prescribed.
- (5) If, in any case, it appears to the local authority by whom the application is approved that the applicant will not without undue hardship be able to finance the cost of so much of the work as is not met by the grant, they may, as regards that case, increase the percentage referred to in subsection (4) above to such percentage, not exceeding 90 per cent., as they think fit.
- (6) Sections 2 and 4 to 10 of this Act (other than section 4(3)(b), section 5(1), (1A), (3), (3A), (5) and (6) and section (7) shall apply to an application for a grant under subsection (1) above as they apply to an application for an improvement grant, except that for the purposes of such application the reference to " section 5(1) or, as the case may be, 7(4) " in section 6(1)(b) shall be construed as a reference to subsection (4) or, as the case may be, (5) of this section.
- (7) In subsection (1) above " public body " means a regional, islands or district council or such other body as the Secretary of State may by order specify.”.
- (2) In subsection (1) of section 107 of the Housing (Scotland) Act 1966 at the end there shall be added the words " ; and it shall serve a notice under the foregoing provisions of this subsection if such house is of such description or occupied in such manner as the Secretary of State may, with the consent of the Treasury, specify by order a draft of which has been approved by the Commons House of Parliament. " .

53 Limitation on payment which may be required of persons exercising right to purchase under Tenants' Rights, Etc. (Scotland) Act 1980

- (1) In section 1 of the Tenants' Rights, Etc. (Scotland) Act 1980 (which relates to the rights of a public sector tenant to purchase the house which he occupies) after subsection (1) there shall be inserted the following subsection—
- “(1A) Subject to subsection (1) above and to sections 2(8) and 6 of this Act no person exercising (or seeking to exercise) a right to purchase under the said subsection (1) shall be obliged, notwithstanding any agreement to the contrary, to make any payment to or lodge any deposit with the landlord which he would not have been obliged to make or as the case may be lodge had he not exercised (or sought to exercise) the right to purchase:
- Provided that this subsection shall not apply as regards the expenses of any court proceedings.”.

- (2) In section 4 of the said Act of 1980—
- (a) in subsection (1), at the beginning, there shall be inserted the words " Subject to section 1(1 A) of this Act "; and
 - (b) in subsection (3) the words " incurred in connection with the sale of the dwelling-house " shall cease to have effect.

54 Ranking of standard securities to secure discount

In section 6(5) of the Tenants' Rights, Etc. (Scotland) Act 1980 (which provides for the ranking of a standard security to secure discount)—

- (a) in paragraph (a)—
 - (i) for the word " a " where it first appears there shall be substituted the word " any ";
 - (ii) after the word " loan " there shall be inserted the words " either—
 - (i)";
 - and
 - (iii) for the word " and " where it first occurs there shall be substituted the words " ; or
 - (ii) for the improvement of the dwelling-house, and"; and
- (b) in paragraph (b) for the word " further " there shall be substituted the word " other ".

55 Power of Lands Tribunal in relation to certain failures by public sector landlord

(1) In section 7 of the Tenants' Rights, Etc. (Scotland) Act 1980 (which among other things empowers the Lands Tribunal for Scotland to take steps to enable a tenant to exercise his right to purchase a dwelling-house in a case where the landlord has failed to comply with requirements of the Act)—

- (a) in subsection (2)—
 - (i) in paragraph (a) after the word " sell " there shall be inserted the words " (even if only such offer to sell as is mentioned in paragraph (d) below) "; and
 - (ii) after paragraph (c) there shall be inserted the following paragraph—
 - “, or
 - (d) where a landlord has served an offer to sell whose contents do not conform with the requirements of paragraphs (a) to (e) of section 2(2) of this Act (or where such contents were not obtained in accordance with the provisions specified in those paragraphs),”;
 - and
- (b) for subsection (3) there shall be substituted the following subsection—
 - “(3) Where a matter has been referred to the Lands Tribunal for Scotland under subsection (2) above the Tribunal shall consider whether in its opinion—
 - (a) any of paragraphs (a) to (c) of that subsection apply, and if it so finds it may—

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- (i) give any consent, exercise any discretion or do anything which the landlord may give, exercise or as the case may be do under or for the purposes of this Part of this Act; and
- (ii) issue such notices and undertake such other steps as may be required to complete the procedure provided for in section 2 of this Act;

and any consent given, any discretion exercised or anything done under the foregoing provisions of this subsection shall have effect as if it had been duly given, exercised or as the case may be done by the landlord ; or

- (b) paragraph (d) of that subsection applies, and if it so finds it may order the landlord to serve on the tenant an offer to sell, in proper form, under section 2(2) of this Act within such time (not exceeding two months) as it may specify.”.

(2) The amendments made by subsection (1) above and by paragraphs 39 and 40 of Schedule 3 to this Act shall have no effect as regards any case where, at the date of coming into operation of this section of this Act, the Lands Tribunal for Scotland has either—

- (a) determined, after consideration under subsection (3) of the said section 7, that none of paragraphs (a) to (c) of subsection (2) of that section apply to that case ; or
- (b) issued an offer to sell under the said subsection (3).

56 Maintenance of sewage treatment works and waterworks

In section 20 of the 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.”.

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

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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 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.”.

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 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.”.

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.”.

60 Approved duties of councillors and allowances in respect thereof

- (1) Under the 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 a member that he wishes to receive financial loss allowance, he shall be entitled, subject to and in accordance with the provisions of any relevant regulations made under section 50 of this Act, to receive that allowance instead of any payment by way of attendance allowance to which he would otherwise be entitled.”.

- (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;”.

61 Abolition of Amenity Committee

The Amenity Committee appointed under subsection (2) of section 9 of the 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 Electricity (Scotland) Act 1979) is hereby abolished.

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 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 Saving 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;

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- (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.
- (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 II of that Schedule (which relate to powers of entry),
 are hereby repealed to the extent specified in the third column of that Schedule.

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.