

Status: Point in time view as at 06/04/1995.

Changes to legislation: There are currently no known outstanding effects for the Local Government etc. (Scotland) Act 1994, SCHEDULE 3. (See end of Document for details)

SCHEDULE 3

Section 18(10).

RESIDUARY BODIES

Incorporation

- 1 A residuary body shall—
- (a) be a body corporate; and
 - (b) have a common seal.

Status

- 2 A residuary body shall not be regarded as acting on behalf of the Crown and neither that body nor its members, officers or servants shall be regarded as Crown servants.

Membership

- 3 (1) Subject to the provisions of this paragraph, every member of a residuary body shall hold and vacate his office in accordance with the terms of his appointment.
- (2) A residuary body shall consist of not less than three and not more than seven members appointed by the Secretary of State; and the Secretary of State shall appoint one of those members to be chairman and may appoint another to be deputy chairman of that body.
- (3) The Secretary of State may by order alter either of the numbers specified in subparagraph (2) above.
- (4) Any member may resign by notice in writing to the Secretary of State, and the chairman or deputy chairman may by a like notice resign his office as such.
- (5) The Secretary of State may remove a member from office if satisfied that the member—
- (a) has had his estate sequestrated, has made any arrangement with his creditors, has been adjudged bankrupt or has granted a trust deed or a composition contract for his creditors;
 - (b) is incapacitated by physical or mental illness;
 - (c) has been absent from meetings of the body for a period of three months otherwise than for a reason approved by the body; or
 - (d) is in the opinion of the Secretary of State otherwise unable or unfit to discharge the functions of a member.
- (6) If the chairman or deputy chairman ceases to be a member he shall also cease to be chairman or deputy chairman.
- (7) An order under this paragraph shall be made by statutory instrument subject to annulment by resolution of either House of Parliament.
- 4 The Secretary of State shall satisfy himself—
- (a) before he appoints a person under paragraph 3(2) above, that the person has no financial or other interest likely to affect prejudicially performance as a member of the residuary body in question;
 - (b) from time to time, that each person so appointed continues, and has continued, to have no such interest.

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- 5 A person in respect of whom the Secretary of State requires to be satisfied as is mentioned in paragraph 4(b) above shall, whenever requested by the Secretary of State to do so, furnish the Secretary of State with such information as the Secretary of State may consider necessary for the purposes of that requirement.

Remuneration etc. of members

- 6 (1) A residuary body shall pay to each member such remuneration and allowances (if any) as the Secretary of State may with the consent of the Treasury determine.
- (2) As regards any member of a residuary body in whose case the Secretary of State may so determine, the body shall pay or make provision for the payment of such sums by way of pension, allowances and gratuities to or in respect of him as the Secretary of State may with the consent of the Treasury determine.
- (3) Where a person ceases to be a member of a residuary body otherwise than on the expiration of his term of office and it appears to the Secretary of State that there are special circumstances which make it right for him to receive compensation, the body shall pay as compensation to that person such amount as the Secretary of State may with the consent of the Treasury determine.
- (4) Where an employee of a residuary body becomes a member of that body and immediately before becoming a member was by reference to his employment by that body participating in a superannuation scheme, the body may make provision for him to continue to participate in that scheme, on terms and conditions determined by the body with the consent of the Secretary of State, as if his service as a member were service as an employee; and such scheme shall have effect subject to any provision made under this sub-paragraph.

Staff

- 7 A residuary body may appoint, on such terms and conditions as they may, with the approval of the Secretary of State given with the consent of the Treasury, determine such employees as they think fit.
- 8 (1) A residuary body shall, in the case of such of their employees or former employees as they may, with the approval of the Secretary of State given with the consent of the Treasury, determine—
- (a) pay such pensions, allowances or gratuities to or in respect of those employees;
 - (b) make such payments towards provision of such pensions, allowances or gratuities; or
 - (c) provide and maintain such schemes (whether contributory or not) for the payment of such pensions allowances or gratuities,
- as they may, with the approval of the Secretary of State given with the consent of the Treasury, determine.
- (2) The reference in sub-paragraph (1) above to pensions, allowances or gratuities in respect of employees of a residuary body includes a reference to pensions, allowances or gratuities by way of compensation to or in respect of any such employee who suffers loss of office or employment.

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Proceedings

- 9 (1) A member of a residuary body who is directly or indirectly interested in—
- (a) a contract made or proposed to be made by them; or
 - (b) any other matter whatsoever which falls to be considered by them,
- shall as soon as is practicable disclose the nature of his interest at a meeting of the body; and the disclosure shall be recorded in the minutes of the meeting.
- (2) In the case mentioned in—
- (a) head (a) of sub-paragraph (1) above, the member shall not take part in any deliberation or decision of the body with respect to the contract;
 - (b) head (b) of that sub-paragraph, the member shall not take part in any deliberation or decision of the body with respect to the matter if the body decide that the interest in question might affect prejudicially his consideration of the matter.
- (3) For the purposes of this paragraph, a notice to the effect that a person is a member of a specified body corporate or firm and is to be regarded as interested in any contract which is made with the body corporate or firm after the date of the notice, and in any other matter whatsoever concerning the body corporate or firm which falls to be considered after that date, shall if given at a meeting of the residuary body be a sufficient disclosure of the person's interest to the body.
- (4) For the purposes of this paragraph, disclosure at a meeting may be made without the attendance in person of the member in question provided that he takes reasonable steps to ensure that the matter disclosed is raised and taken into consideration at the meeting.
- 10 (1) A residuary body shall regulate its own proceedings.
- (2) The validity of any proceedings of a residuary body shall not be affected by any vacancy among its members or by any defect in the appointment of any of its members, or by any failure to comply with any requirement of paragraph 9 above.
- 11 (1) For a purpose other than is mentioned in sub-paragraph (2) below, a document is validly executed by a residuary body if signed on behalf of that body by their chairman, or by another of their members, or by a person authorised to sign the document on their behalf.
- (2) For the purposes of any enactment or rule of law relating to the authentication of documents, a document is validly executed by a residuary body if subscribed on behalf of the body by being executed in accordance with the provisions of sub-paragraph (1) above.
- (3) A document which bears to have been executed by a residuary body in accordance with sub-paragraph (2) above shall, in relation to such execution, be a probative document if—
- (a) the subscription of the document bears to have been attested by at least one witness; or
 - (b) the document bears to be sealed with the seal of the body.

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Delegation

- 12 (1) Anything authorised or required by or under any enactment to be done by a residuary body may be done by any committee formed by them which, or by any of its members or officers who, is authorised (generally or specifically) for the purpose by the body.
- (2) Nothing in sub-paragraph (1) above shall prevent a residuary body from doing anything that a committee, member or officer has been authorised to do.

Acquisition and disposal of land

- 13 (1) A residuary body may with the consent of the Secretary of State acquire by agreement any land required by it for carrying out its functions.
- (2) A residuary body may dispose of any land held by it in such manner as it wishes and shall dispose of any land held by it which is not required by it for carrying out its functions.

Borrowing and lending

- 14 A residuary body may, subject to any directions by the Secretary of State, borrow and lend money for the purpose of carrying out any of their functions.

Provision of services

- 15 (1) A residuary body may by agreement with any relevant new authority, and on such terms as to payment or otherwise as the parties consider appropriate, provide that authority with professional or technical services.
- (2) In this paragraph “relevant new authority”, in relation to a residuary body, means a new authority exercising functions in the area for which that body is established.

Provision of information by councils

- 16 A local authority shall, on request, supply a residuary body with such information as the body may reasonably require from that authority for the purpose of carrying out their functions.

Reports and information

- 17 (1) A residuary body shall publish an annual report on the discharge of its functions.
- (2) A residuary body shall send to the Secretary of State a copy of any report made by it under sub-paragraph (1) above and the Secretary of State shall lay copies of it before each House of Parliament.
- (3) A residuary body shall furnish the Secretary of State with such information relating to the discharge of its functions as he may require, and for that purpose shall permit any person authorised by him to inspect and make copies of any accounts or other documents of the body and shall afford such explanation of them as that person or the Secretary of State may require.

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Supervision by Commissioner for Local Administration in Scotland

- 18 A residuary body established under this Act shall be included among the authorities to which Part II of the 1975 Act applies.

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