



# Local Government etc. (Scotland) Act 1994

## 1994 CHAPTER 39

### PART I

#### LOCAL GOVERNMENT REORGANISATION

#### CHAPTER 7

#### MISCELLANEOUS

#### 59 Local Acts and instruments.

(1) Subject to subsection (2) below, any local statutory provision to which this section applies and which is not continued in force by any other provision of this Part of this Act shall—

- (a) notwithstanding the changes of administrative areas and local authorities effected by or under this Part of this Act and, in the case of an instrument made under any enactment, notwithstanding the repeal of that enactment, continue to apply on and after 1st April 1996 to, but only to, the area, things or persons to which or to whom it applies before that date;
- (b) have effect subject to any necessary modifications and to the modifications made by subsection (3) below;

but the continuation by this subsection of an instrument made under any enactment shall not be construed as prejudicing any power to vary or revoke the instrument which is exercisable apart from this subsection.

(2) Subsection (1) above shall have effect subject to the provisions of—

- (a) subsection (6) below;
- (b) this Part of this Act;
- (c) any Act passed after this Act and before 1st April 1996; and
- (d) any order made under—

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*Changes to legislation: There are currently no known outstanding effects for the Local Government etc. (Scotland) Act 1994, Section 59. (See end of Document for details)*

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- (i) section 181 of this Act; or
  - (ii) the following provisions of this section.
- (3) Any local statutory provision to which this section applies and which relates to functions exercisable by an existing local authority of any description by virtue of any public general enactment shall have effect as if for any reference to the authority by whom the functions are exercised immediately before 1st April 1996 there were substituted a reference to the authority by whom those functions are exercisable on and after that date.
- (4) Subsection (3) above shall not come into force until 1st April 1996 and shall have effect subject to any provision to the contrary made by, or by any instrument made under, this Part of this Act and, without prejudice to the foregoing, the Secretary of State may by order provide for the exercise of functions conferred by any local statutory provision to which this section applies and exclude the operation of that subsection where it would otherwise conflict with any provision of the order.
- (5) Where any local statutory provision is continued in force in any area by subsection (1) above or is amended or modified in its application to any area by an order under section 181 of this Act, the Secretary of State may by that order, or in the case of a provision continued as aforesaid, by an order under this subsection—
  - (a) extend the provision throughout the new local government area in which it is continued in force;
  - (b) provide that that provision as so continued, amended, modified or extended shall have effect in that area to the exclusion of any enactment for corresponding purposes, including any enactment contained in or applied by this Act;
  - (c) make such modifications of any such enactment in its application to that area as will secure that the enactment will operate harmoniously with the said provision in that area;
  - (d) repeal or revoke any local statutory provision to which this section applies and which appears to the Secretary of State to have become spent, obsolete or unnecessary or to have been substantially superseded by any enactment or instrument which applies or may be applied to the area, persons or things to which or to whom that provision applies;
  - (e) transfer to any local authority appearing to the Secretary of State to be appropriate any functions of an existing local authority under a local statutory provision to which this section applies which are not to become functions of some other authority under any provisions of this Act except section 181 of this Act and this section, or under any other instrument made under this Act, being functions exercisable by any existing local authority abolished by this Act;
  - (f) without prejudice to paragraph (e) above, make such modifications of any local statutory provision to which this section applies in its application to any new local government area as appear to the Secretary of State to be expedient.
- (6) All local statutory provisions to which this subsection applies shall cease to have effect on 31st December 1999, but the Secretary of State may—
  - (a) by order exempt any such provision from the foregoing provision of this subsection;

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- (b) from time to time by order postpone the date on which any local statutory provision applying to the whole or part of any local government area is to cease to have effect under this subsection.
- (7) An order under this section shall be made by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament.
- (8) This section applies to any local statutory provision in force immediately before 1st April 1996 and not expressly repealed or revoked by this Act, and subsection (6) above applies to the following local statutory provisions—
- (a) a provision of a local Act, the Bill for which was promoted by a local authority;
  - (b) a provision of an Act confirming a provisional order made on the application of a local authority;
  - (c) a provision of an order made on such an application which was subject to special parliamentary procedure;
  - (d) any byelaw; and
  - (e) any management rule made under section 112 of the <sup>M1</sup>Civic Government (Scotland) Act 1982 (management rules),
- not being a provision relating to a statutory undertaking.

- (9) In this section—

“existing local authority” means a regional or district council;

“local authority” means an existing local authority, a joint committee, an authority constituted under section 2 of this Act, a joint board and a residuary body; and, for the purposes of subsection (6) above, includes any local authority in existence prior to 16th May 1975;

“local statutory provision” includes—

- (a) a provision of a public general Act passed with respect only to the whole or part of an existing local government area;
- (b) a provision of an instrument made under such a public general Act;
- (c) an instrument in the nature of a local statutory provision made under any other public general Act;
- (d) a provision of a local Act or a provision of an instrument made under any such Act;
- (e) a provision of an Act confirming a provisional order;
- (f) a provision of an order which was subject to special parliamentary procedure;
- (g) any byelaw; and
- (h) any management rule made under section 112 of the <sup>M2</sup>Civic Government (Scotland) Act 1982 (management rules),

but does not include any enactment or instrument in so far as that enactment or instrument relates to functions mentioned in section 91(1)(b) of this Act nor any order under section 6 of the 1975 Act; and

“statutory undertaking” means any railway, light railway, tramway, road transport, water transport, canal, inland navigation, ferry, dock, harbour, pier or lighthouse undertaking, any market undertaking or any undertaking for the supply of electricity, gas, hydraulic power or district heating.

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**Changes to legislation:** *There are currently no known outstanding effects for the Local Government etc. (Scotland) Act 1994, Section 59. (See end of Document for details)*

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#### **Marginal Citations**

**M1** [1982 c. 45.](#)

**M2** [1982 c. 45.](#)

**Changes to legislation:**

There are currently no known outstanding effects for the Local Government etc. (Scotland) Act 1994, Section 59.