



Local Government (Scotland) Act 1929

1929 CHAPTER 25

PART I

LOCAL GOVERNMENT ADMINISTRATION.

Transfer of Property and Liabilities and of Officers.

6 Transfer of property and Liabilities of transferor authorities.

- (1) Where any functions are transferred by or under this Act from one local authority (in this Act referred to as the transferor authority) to one or more other local authorities (in this Act referred to as transferee authorities), then, subject to the provisions of this Act, all property or liabilities so far as held or incurred by, or on behalf of, the transferor authority for the purposes of such functions (including, without prejudice to the foregoing generality, any property and liabilities held or incurred by a district board of control, district committee, education authority or parish council as trustees of a trust)—
- (a) if the area of the transferor authority is wholly comprised within the area of the transferee authority, shall be transferred to and vest in the transferee authority; and
 - (b) in any other case shall be transferred to and vest in such one of the transferee authorities or such two or more of the transferee authorities jointly, or be divided between any two or more of those authorities as may be agreed between them or, failing agreement, as the Central Department may by order determine:

Provided that—

- (i) as respects any superannuation fund established by a transferor authority being a district board of control or parish council where the functions of that authority are by this Act transferred to two or more transferee authorities, the fund shall be transferred to and vest in the transferee authority (not being a district council) the gross annual valuation of whose area so far as within the area of the transferor authority, according to the valuation roll for the year

Status: This is the original version (as it was originally enacted). This item of legislation is currently only available in its original format.

current at the passing of this Act, exceeds the gross annual valuation of the area of any other transferee authority (not being a district council) so far as within the area of the transferor authority;

- (ii) as respects any trust vested in a district board of control, or parish council where the area of the transferor authority is within the area of two or more transferee authorities, the transferee authorities shall jointly be the trustees of the trust as coming in place of the transferor authority unless the trust relates solely to a part of the area which is wholly within the area of one of the transferee authorities, in which case that transferee authority shall be the trustees of the trust and the property and liabilities of the trust shall be transferred to and vest in the transferee authorities or the transferee authority as the case may be; and
 - (iii) as respects any sum due and unpaid by a transferor authority at the commencement of this Act (including any sums required by the Department of Health to be paid before that date under section twenty-four of this Act) the Secretary of State may by order make such provision for such sums being charged only against the area to which the debt relates or otherwise as he considers equitable.
- (2) Subject to the provisions of this Act, all property and liabilities transferred by or in pursuance of this section shall be held or treated as incurred by or on behalf of the transferee authority for the same purposes and subject to the same trusts, and in the case of property subject to the same debts and liabilities as they were held or incurred by or on behalf of the transferor authority, but, save in the case of a trust constituted by deed or other writing, or in the case of property held for the purposes of the Public Libraries Acts, any property or liabilities relating to a function transferred by or under this Act shall be held or treated as incurred for the purposes of the function so far as relating to the whole area of the transferee authority: Provided that nothing in this subsection shall affect the provisions of the Educational Endowments (Scotland) Act, 1882, and the Educational Endowments (Scotland) Act, 1928, as respects any trust to which those Acts apply.
- (3) Where in accordance with the provisions of the Roads and Streets in Police Burghs (Scotland) Act, 1925, the town council of a small burgh has paid to a county council a sum in redemption of their liability to make annual payments in respect of highways within the burgh, the county council shall, as soon as may be after the commencement of this Act, repay to the town council the said sum, subject to a deduction therefrom in respect of every complete year which has elapsed since the date at which the said sum was payable by the town council of a sum equal to one-tenth or one-fifteenth of the said sum according as the said highways were transferred prior to the sixteenth day of May, nineteen hundred and twenty-four, or after that date.
- (4) If any question arises as to the custody of or access to books, records or other documents relating to a function transferred by or under this Act, the question shall, if the authorities concerned fail to agree, be determined by the Central Department.

7 **Transfer of officers and superannuation funds.**

- (1) The provisions of section twenty-seven of and the Second Schedule to the Act of 1926 (relating to transfer of and compensation to officers) shall apply for the purposes of this Act to and as respects officers of transferor and transferee authorities respectively as they applied to and as respects officers of parish councils and rating authorities respectively, subject to the following and any other necessary modifications :—

Status: This is the original version (as it was originally enacted). This item of legislation is currently only available in its original format.

- (a) References to the passing or commencement of the said Act shall be construed as references to the passing or commencement of this Act, as the case may be, except where functions are transferred under subsection (2) of section two of this Act, in which case the references to the passing and commencement of this Act shall respectively be construed as references to the date of the order made under the said subsection and the date when the transfer of functions under the order takes effect:
- (b) Subsection (1) of the said section twenty-seven shall apply to the following officers as if they were the officers therein specified—
 - (i) every person who at the commencement of this Act is employed as a teacher by an education authority;
 - (ii) every other officer employed at the passing of this Act by a district board of control, district committee, education authority or parish council and still so employed at the commencement of this Act; and
 - (iii) every officer who at the passing of this Act is employed by a transferor authority (other than a district board of control, district committee, education authority or parish council) in full-time employment in the performance of functions of the authority transferred by this Act and who is still so employed at the commencement of this Act:

Provided that where the area of the transferor authority is within the areas of two or more transferee authorities, and where any such officer as aforesaid is employed in full-time employment in or about any institution, building or lands belonging to a transferor authority, such officer shall be transferred to and become an officer of the transferee authority or authorities to which the institution, buildings or lands are transferred:

- (c) The reference to a parish council where it last occurs in proviso (i) to subsection (2) of the said section twenty-seven shall be construed as a reference to the authority having the administration of the superannuation fund therein referred to:
- (d) The second proviso to subsection (2) and paragraph (i) of subsection (8) of the said section twenty-seven shall not apply:
- (e) Any officer who was the chief constable of a small burgh immediately before the commencement of this Act may decline to become an officer of the transferee authority and any such officer who shall so decline shall be entitled to compensation without regard being had to any offer of employment in the police force of the transferee authority, and any such officer who shall accept office under the transferee authority shall, notwithstanding the provisions of subsection (2) of the said section twenty-seven, hold office on such terms and conditions as that authority may determine :
- (f) The reference to "this Act" in subsection (7) of the said section twenty-seven shall be construed as a reference to Part I of this Act :
- (g) References to a parish council, town council or county council in paragraphs 2, 3 and 4 of the said Schedule shall be construed as references to any local authority :
- (h) Except where the transferee authority or in the case of a claim for compensation the compensating authority in any particular case otherwise determine, any alteration made after the twelfth day of November, nineteen hundred and twenty-eight, in the tenure or terms "and conditions on which any officer held his office at that date or in the salary or remuneration payable to any officer at that date shall be deemed not to have been made unless such

Status: This is the original version (as it was originally enacted). This item of legislation is currently only available in its original format.

alteration was made in pursuance of an agreement concluded before that date or merely confers rights to superannuation under the Local Government and other Officers' Superannuation Act, 1922:

- (i) In computing the service of any officer for the purpose of an award of compensation, account shall be taken only of the service of that officer under any local authority after he attained the age of eighteen years, and where the officer held two or more offices and the claim to compensation is based on a loss of one or some only of those offices, account shall not be taken of service in an office which the officer continues to hold, unless throughout the period of his service in that office he devoted the whole of his time to the duties of offices held by him under one or more local authorities :

Provided that, where a claim for compensation is made by a person who, while employed by a local authority in an office the employment in which is ordinarily regarded as full time employment, also held another office under a local authority and the claim is based on the loss only of the last mentioned office, account shall not be taken of service in the first mentioned office:

- (j) Where a person who, both at the passing and at the commencement of this Act, is in the full-time employment of an officer of a transferor or transferee authority (other than an officer holding a temporary appointment) and is engaged solely on the work of the authority, suffers direct pecuniary loss by termination of his employment in consequence of his employer, if an officer of a transferor authority, not becoming an officer of the transferee authority or if an officer of a transferee authority ceasing to be an officer of that authority or otherwise in consequence of anything done under, or in pursuance of, or in consequence of this Act, the transferee authority may in their discretion pay to such person by way of compensation such sum as they think proper not exceeding the compensation which would have been payable to him had he, while employed and engaged as aforesaid, been in the full-time employment of the authority of which his employer was an officer.

For the purposes of this subsection, a district council shall be deemed not to be a transferee authority, except as respects any officer employed by a parish council solely for the purposes of functions transferred to the district council.

- (2) Any transferee authority to whom a superannuation fund is transferred by or in pursuance of this Act, may, and if required by the Secretary of State shall, frame a scheme with respect to the rights and liabilities of parties interested in the fund, and such scheme may provide for the said fund being merged so as to form one fund with any other superannuation fund of the transferee authority, whether established under the same Act or not, and for any necessary financial adjustments, and may modify or adapt the provisions of any Act of Parliament, rules or scheme relating to any of the said funds, so however that the rights and interests of officers in any such funds shall be adequately protected; and any such scheme shall have effect only subject to the approval of the Secretary of State.
- (3) Where before the commencement of this Act a transferee authority has established a superannuation fund, the authority may, subject to the approval of the Secretary of State, by scheme provide for applying to officers transferred by or under this Act to that authority the Act or the rules or scheme regulating the fund, subject to such modifications and adaptations as may be prescribed in the scheme.
- (4) Where any scheme under this section modifies or adapts the provisions of any Act of Parliament, the scheme shall be laid before both Houses of Parliament as soon as may

Status: This is the original version (as it was originally enacted). This item of legislation is currently only available in its original format.

be after it is made, and if an Address is presented to His Majesty by either House of Parliament within the next subsequent twenty-eight days on which that House has sat after any such scheme is laid before it praying that the scheme may be annulled, it shall henceforth be void, but without prejudice to the validity of anything previously done thereunder or the making of a new scheme.