



Local Government (Scotland) Act 1947

1947 CHAPTER 43

PART XX

GENERAL.

Miscellaneous Provisions.

361 Provision as to alteration of register of electors in certain cases.

Where any order or deliverance or district council scheme made under this Act altering the boundaries of electoral divisions in a county or of wards in a burgh or in an electoral division or dividing a burgh into wards involves an alteration of the area of any registration unit within the meaning of the Representation of the People Acts, the Secretary of State may by order make such provision as may be necessary with regard to the register of electors to be used at any election of county, town or district councillors for any division or burgh or ward affected by such alteration in the area of the registration unit.

362 Limitation of liability of certain owners.

Where a local authority claim to recover any sum in respect of rates or otherwise under or in pursuance of any provision of this Act from a person as being the owner of premises and that person proves that he—

- (a) is receiving the rent merely as trustee, tutor, curator, factor or agent for some other person; and
- (b) has not, and since the date of the service on him of the demand for payment has not had, in his hands on behalf of that other person sufficient money to discharge the whole demand of the authority,

his liability should be limited to the total amount of the money which he has or has had in his hands as aforesaid.

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363 Power to apply provisions of Act to joint boards, and &c.

- (1) Where any enactment makes provision for the establishment by order or otherwise of a joint board or joint committee for the discharge of any of the functions of local authorities, the order or other document constituting or regulating the constitution of the joint board or joint committee may, without prejudice to any provisions of this Act, apply to the joint board or joint committee, subject to any necessary modifications, any of the provisions of this Act:

Provided that the provisions of this Act enabling land to be acquired compulsorily shall not be so applied except in so far as this Act or any other enactment authorises land to be acquired compulsorily for the purposes of the functions of the local authorities which are delegated to the joint board or joint committee.

- (2) In the case of any such joint board or joint committee established prior to the commencement of this Act, the order or other document constituting or regulating the constitution of the joint board or joint committee may be altered for the purposes aforesaid by order made by the Minister concerned on the application of any of the constituent authorities and after consultation with any other constituent authorities.
- (3) Without prejudice to any other provisions of this Act, the Secretary of State, on the application of any joint board established by a local Act passed before the commencement of this Act, may by order apply to the joint board any of the provisions) of this Act (other than those relating to the compulsory acquisition of land) subject to such modifications as may be specified in the order, and such provisions of any local Act relating to the joint board passed before the commencement of this Act as are specified in the order shall in consequence cease to have effect.

364 Member of local authority appointed to any court or body to cease to be member on ceasing to be member of authority.

Where a local authority by virtue of any enactment or any statutory order or otherwise appoint a member of the authority to be a member of any court or body, then, unless otherwise specifically provided in the enactment or order or document regulating the constitution of the court or body, the person so appointed shall cease to be a member of the court or body on ceasing to be a member of the authority.

365 Election and term of office of members of courts for counties under Licensing (Scotland) Act, 1903.

The following subsection shall as from the commencement of this Act be substituted for subsection (1) of section five of the Licensing (Scotland) Act, 1903, which relates to the election and term of office of members of courts under that Act:—

- “(1) (a) The members of a licensing court or court of appeal being justices of the peace or county councillors holding office at the commencement of the Local Government (Scotland) Act, 1947, shall hold office until the day of the first meeting of the county council held after the election of county councillors in the year nineteen hundred and forty-eight, when they shall retire and their successors be elected, and thereafter the term of office of members of the licensing court or court of appeal, being justices of the peace or county councillors, shall be from the day of their election as hereinafter provided until the day of the first meeting

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of the county council held after the election of county councillors in the third year thereafter.

- (b) The members of such a court being justices of the peace shall be elected at a meeting of the justices of the peace to be held on the same day and at the same place as the first meeting of the county council held after the election of county councillors in the year nineteen hundred and forty-eight and in every third year thereafter.
- (c) The members of such a court being county councillors shall be elected at the first meeting of the county council held after the election of county councillors in the year nineteen hundred and forty-eight and in every third year thereafter.
- (d) Notwithstanding any enactment providing that a member of a court appointed by a local authority shall cease to be a member of the court on ceasing to be a member of the local authority, a member of the licensing court or court of appeal who is a county councillor until the day of the election of county councillors shall continue to be a member of the court until his successor is appointed at the first meeting of the county council held after the election.
- (e) A justice of the peace who is not entered in the valuation roll for a county or a burgh situated therein as a proprietor, tenant or occupier of lands or heritages shall not be entitled to vote or submit a motion or, except with leave of the meeting, to take part in a discussion in connection with an election by the justices for the county of representatives from their own number to the county licensing court or court of appeal or to a court of appeal from a burgh licensing court or be eligible as a member of any such court.”

366 Provisions as to Sunday, and &c.

- (1) Where the day or the last day on which anything is required or permitted by or in pursuance of this Act to be done is a Sunday, Christmas Day, New Year's Day, Good Friday, bank holiday, or a public holiday, or a day appointed for public thanksgiving or mourning, the requirement or permission shall be deemed to relate to the first day thereafter which is not one of the days before mentioned, but, save as aforesaid or as otherwise expressly provided in this Act, in reckoning a number of days for the purposes of this Act, the days before specified shall not be excluded.
- (2) Where under the foregoing provisions of this section an election is postponed, the day on which the election is held shall be treated as the day of election for all purposes of this Act relating to that election:

Provided that where a day is declared to be a bank holiday or day of public thanksgiving or mourning, nothing in this subsection shall affect the validity of any act done in relation to an election before or on the date of the declaration.

367 References to census.

For the purposes of this Act or any other enactment relating to local government, references to the last published census shall as regards any local government area be construed as references to the last census in respect of which the Registrar-General for Scotland has, in pursuance of the Act under which the census was taken, published

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a report giving the population of that area, not being a report which is or purports to be of a provisional nature.

368 Adaptation of local Acts relating to local authorities.

- (1) In the case of a local authority to whom a local Act passed before the commencement of this Act applies, the Secretary of State may on the application of the authority make an order—
- (a) modifying provisions of the local Act in consequence of the provisions of this Act; or
 - (b) modifying, provisions of this Act in their application to the authority in consequence of the provisions of the local Act; or
 - (c) declaring that provisions of the local Act shall cease to have effect; or
 - (d) declaring that provisions of this Act shall not apply in the case of that authority:

Provided that—

- (i) an order under this section shall not, unless the authority consent thereto, be made with respect to any provision of this Act in which reference is made to a local Act;
 - (ii) an order under this section shall not be made with respect to Part II of this Act so far as relating to offences connected with elections, or Part V of this Act so far as relating to administrative schemes and committees for the purposes of such schemes, or Part X of, or the Second Schedule to, this Act;
 - (iii) an order under this section shall not affect any provision of a local Act so far as relating to the purpose for which any money may be applied;
 - (iv) if within five years after the commencement of this Act the Secretary of State has not received an application from the local authority relating to any provision with respect to which it appears to him necessary or proper to make an order under this section, he may make an order with respect to the provision.
- (2) An order under paragraph (iv) of the proviso to the immediately preceding subsection shall be subject to special parliamentary procedure.
- (3) The Secretary of State shall before making an order under the said paragraph (iv), cause not less than twenty-eight days notice to be given to the local authority of the purport of the order.
- (4) Anything, contained in a local Act in its application to a local authority inconsistent with any of the provisions of Part II of this Act so far as relating to offences connected with elections, or Part V of this Act so far as relating to administrative schemes and committees for the purposes of such schemes, or Part X of, or the Second Schedule to, this Act, shall cease to have effect.
- (5) Any provision of a local Act applying or adopting any enactment contained in the Burgh Police Acts or in the Town Councils (Scotland) Acts, 1900 to 1923, which is repealed by this Act shall cease to have effect.
- (6) Subject to the two immediately preceding subsections and save as otherwise provided in subsection (2) of section three hundred and eighty-one of this Act, the provisions of this Act so far as inconsistent with the provisions of a local Act shall not apply to

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or as respects the local authority concerned until an order is made under this section with respect to such provisions.

369 Adaptation of other local Acts.

Without prejudice to any other provisions of this Act, if the Secretary of State, on the application of any local authority or any person concerned, is satisfied that the provisions of any local Act passed before the commencement of this Act (not being a local Act to which the immediately preceding section applies) should be adapted in consequence of the provisions of this Act, the Secretary of State may by order make such adaptations in the provisions of the said local Act as seem to him to be necessary in the circumstances.

(2) An order under this section shall be subject to special parliamentary procedure.

370 Order by Secretary of State relating to House Letting and Rating (Scotland) Act, 1911.

(1) The Secretary of State may make an order after a local inquiry, if he thinks that such an inquiry should be held, for the purpose of resolving any doubt arising in relation to any assessing authority under the House Letting and Rating (Scotland) Act, 1911, as to the effect of that Act, and any such order shall as soon as may be after it is made be laid before each House of Parliament.

(2) Subsection (7) of section seven of the said Act of 1911 shall have effect subject to the provisions of the foregoing subsection and as if the words from " and in case of doubt " to the end of the subsection were omitted.

371 Transitional regulations.

(1) The Secretary of State may, if he considers it necessary for the purpose of carrying this Act into effect, make regulations in the case of any body, person, funds or matter affected by this Act for the transition from the provisions of any enactment repealed by this Act to the provisions of this Act, so however that nothing in the said regulations shall be inconsistent with any provision of this Act.

(2) Regulations made under this section shall as soon as may be after they are made be laid before each House of Parliament.

372 Provisions as to orders.

(1) Any order made by a Minister under this Act may be revoked or altered by an order made in like manner as the previous order.

(2) An order made by a Minister under this Act may contain such incidental, consequential and supplemental provisions as appear to the Minister by whom the order is made to be necessary or proper for bringing the order into operation and giving full effect thereto.

373 Power to annul regulations or orders laid before Parliament.

Where any regulation or order made under this Act is required to be laid before each House of Parliament it shall be so laid for a period of forty days during the Session of Parliament, and if an address is presented to His Majesty by either House

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of Parliament before the expiration of that period praying that the regulation or order may be annulled, it shall thenceforth be void, but without prejudice to the validity of anything previously done thereunder or to the making of a new regulation or order:

Provided that in reckoning any such period of forty days as aforesaid no account shall be taken of any time during which both Houses are adjourned for more than four days.

374 Application to sheriff in cases of difficulty.

- (1) Where, from failure to observe any of the provisions of this Act or from any other cause, a difficulty arises in carrying into effect any of the provisions of this Act, or where in any case any question arises as to the procedure to be followed, or where any question arises in connection with the election of members of a local authority or of magistrates of a burgh and no provision is made in this Act for meeting such difficulty or determining such question, it shall be lawful for the local authority or any seven local government electors for the area of the authority (including in the case of a county any burgh within the county) or the clerk of the authority, or in the case of a question relating to an election of members of a local authority for the returning officer at the election, to make application to the sheriff setting forth the circumstances, and after such intimation and inquiry as to the sheriff seems proper, the sheriff may give such directions as in his judgment will enable the provisions of this Act to be complied with as nearly as possible or determine the question, as the case may be, and may make such order as seems proper to him with reference to the expenses in connection with the application and the persons by whom such expenses are payable.
- (2) Subject to any order made by the sheriff, all expenses incurred in connection with any application under the preceding subsection shall be defrayed as part of the general expenses of the authority.

375 Provisions regarding applications to court.

- (1) Where any application to the sheriff under this Act is dealt with in the first instance by a sheriff substitute, it shall be competent to appeal to the sheriff against the decision of the sheriff substitute within fourteen days after the date thereof, but subject thereto the decision of the sheriff or sheriff substitute shall, except where otherwise specifically provided, be final.
- (2) Where the area of a local authority is situated within more than one sheriffdom, any application to the sheriff under this Act shall be presented to the sheriffs (excluding sheriff substitutes) of the sheriffdoms in which the area of the authority is situated, and in any such application the senior sheriff shall preside at any hearing and the senior sheriff clerk shall act as clerk of court.
- (3) Where any application is presented to two or more sheriffs under this Act and the sheriffs are unable to reach an unanimous decision, they shall state a case for the Court of Session and the Court may pronounce any deliverance which it would have been competent for the sheriffs to make.
- (4) Any deliverance of the Court of Session or of any sheriff under this Act shall be recorded in the sheriff court books of the county in which the area of the local authority to which it applies is situated, and where an application is made to two or more sheriffs under this Act, the senior sheriff clerk shall, after recording any order in the sheriff court books of his county, transmit a certified copy thereof to the sheriff clerk of any other county concerned, and such certified copy shall be sufficient warrant to the

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sheriff clerk of any other county to record the order in the sheriff court books of his county.

376 Saving for existing members of local authorities.

- (1) A person holding office at the commencement of this Act as a member of a local authority or of any committee, sub-committee or joint committee thereof shall be deemed to have been elected or appointed to that office under this Act:

Provided that he shall retire from office on the date on which he would have retired if this Act had not been passed, and until he so retires from that office he shall not be disqualified for holding the office by reason of any circumstance which occurred before the commencement of this Act and which would not have given rise to a disqualification for that office if this Act had not been passed.

- (2) This section shall apply to a person holding office as convener or vice-convener of a county, or as provost, bailie, honorary treasurer, or judge of police of a burgh, or as chairman of a district council, in like manner as it applies to a person holding office as a member of a local authority.
- (3) On a vacancy in any office arising in consequence of the provisions of this section, the vacancy shall be filled as soon as practicable thereafter, and for that purpose the provisions of this Act shall apply subject to any necessary modifications.

377 Minor consequential amendments of enactments.

- (1) Section three of the Convention of Royal Burghs (Scotland) Act, 1879 (which confers power on certain burghs to make annual payments to the Convention) shall have effect as if for the words " out of the police assessment or other " rates leviable under the provisions of any general or local " Act of Parliament " there were substituted the words " as " part of the general expenses of the burgh."
- (2) Section two hundred and eight of the Burgh Police (Scotland) Act, 1892 (which relates to the service of petitions and notices relating to proceedings before the dean of guild court) shall have effect as if for the words " hereinafter " provided with regard to the service of any notice by the " Commissioners " there were substituted the words " provided with regard to the service of any notice by the town " council by section three hundred and forty-nine of the " Local Government (Scotland) Act, 1947."
- (3) Section three hundred and seventy-two of the Burgh Police (Scotland) Act, 1892 (which relates to the recoupment of arrears of private improvement expenses) shall have effect as if for the words " take such expenses out of the burgh " general assessment " there were substituted the words " defray such expenses as part of the general expenses of the " town council. "
- (4) Subsection (6) of section six of the Sea Fisheries Regulations (Scotland) Act, 1895 (which relates to the establishment of fishery district committees) shall have effect as if for the words from " shall be levied " to " and the amounts so " collected " there were substituted the words " shall be paid " as part of the general expenses of the county council relating " exclusively to the landward area of the county, and so far " as sanctioned and payable by a town council as part of " the expenditure of the town council falling to be defrayed " out of the burgh rate so far as payable by occupiers only, " and the amounts so payable."

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- (5) Section one hundred and sixty-eight of the Public Health (Scotland) Act, 1897 (which relates to the exemption from stamp duties of deeds and writings under that Act) shall have effect as if for the words " under this Act " there were substituted the words " for the purposes of this Act. "
- (6) The following paragraph shall be substituted for paragraph (c) of subsection (1) of section four of the Blind Persons Act, 1920 (which subsection relates to the application of that Act to Scotland):—
- “(c) The expression ' county borough ' means a large burgh for the purposes of the Local Government (Scotland) Act, 1947.”
- (7) The following subsection shall be substituted for subsection (2) of section two of the Wireless Telegraphy (Blind Persons Facilities) Act, 1926:—
- “(2) In the application of this section to Scotland, ' county borough ' means a large burgh for the purposes of the Local Government (Scotland) Act, 1947.”
- (8) Any reference in any enactment to a local authority within the meaning of the Local Authorities Loans (Scotland) Act, 1891, or any such reference to the like effect shall be construed as a reference to a local authority within the meaning of this Act or any statutory authority, commissioners or trustees to whom section two hundred and seventy of this Act applies.

378 Cesser of certain enactments.

For the purpose of simplifying and consolidating the law relating to local government, the enactments set out in the Thirteenth Schedule to this Act shall cease to have effect to the extent specified in the third column of that Schedule.

379 Interpretation.

- (1) In this Act, unless the context otherwise requires, the following expressions have the meanings hereby respectively assigned to them:—
- " alteration of area " includes an alteration of the boundary of a county, burgh, district or parish, the formation of a burgh or the dissolution of a burgh under Part VI of this Act;
- " burgh " means a royal burgh, a parliamentary burgh, a burgh incorporated by Act of Parliament or a police burgh to which the Burgh Police (Scotland) Act, 1892, applies, and any other burgh created after the commencement of this Act under this Act or otherwise;
- " Burgh Police Acts " means the Burgh Police (Scotland) Acts, 1892 to 1911, and the Acts amending those Acts;
- " Burial Grounds Acts " means the Burial Grounds (Scotland) Act, 1855, and the Acts amending that Act;
- " classified road " means a road classified by the Minister of Transport under the Ministry of Transport Act, 1919, in Class I or Class II or in any class declared by him to be not inferior to those classes for the purposes of this Act;
- " committee ", in relation to a local authority, means a committee to which is referred or delegated any functions vested in the authority;
- " delegate ", in relation to a committee appointed by a local authority, means remit to the committee with power to the committee to exercise on behalf of the authority the function specified in the remit, and includes power to grant

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any obligation or enter into any contract or execute any deed on behalf of the authority in relation to the matter so remitted, and where any function is delegated by an authority to a committee, the committee may exercise the function in like manner in all respects as the authority could have done;

" ecclesiastical charity " includes a charity the endowment whereof is held for one or more of the following purposes:—

- (a) for theological instruction or for the benefit of any theological institution; or
- (b) for the benefit of any ecclesiastical person or officer as such; or
- (c) for use, if a building, as a church, chapel, mission hall or room, or Sunday school or otherwise by any particular church or denomination; or
- (d) for the maintenance, repair or improvement of any such building as aforesaid, or for the maintenance of divine service therein; or
- (e) otherwise for the benefit of any particular church or denomination or of any members thereof as such:

Provided that where any endowment of a charity, other than a building held for any of the purposes aforesaid, is held in part only for some of the purposes aforesaid, the charity, so far as that endowment is concerned, shall be an ecclesiastical charity within the meaning of this Act;

" educational endowment " has the same meaning as in Part VI of the Education (Scotland) Act, 1946;

" educational establishment " has the same meaning as in the Education (Scotland) Act, 1946;

" electoral area ", in relation to an election, means the electoral division, burgh, ward or other area for which the election is held;

" emoluments " includes all salary, wages, fees and other payments paid or made to an officer as such for his own use, and the money value of any apartments, rations or other allowances in kind pertaining to his office, but does not include payments for overtime or any sum paid to him to cover travelling expenses, cost of office accommodation, assistance of deputies or clerical or other assistance;

" enactment " includes a provision in a provisional order confirmed by Parliament;

" fixed period ", in relation to money borrowed by a local authority, means the period within which the money is to be repaid;

" functions " includes powers and duties;

" General Board of Control " means the General Board of Control for Scotland;

" grant-aided school " means a school in respect of which grants are made by the Secretary of State to the managers of the school, other than grants in aid of the managers' contributions towards the cost of superannuation of teachers, but does not include a residential school or an orphanage or an approved school within the meaning of the Children and Young Persons (Scotland) Act, 1937;

" grants under Part III of the Local Government (Scotland) Act, 1929 " includes grants made under any subsequent enactment out of moneys provided by Parliament towards local government purposes in Scotland by way of addition to the General Exchequer Contribution under the said Part III ;

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" gross annual valuation ", in relation to lands and heritages within an area, means the total of the gross annual values of the said lands and heritages;

" gross annual value ", in relation to lands and heritages, means the yearly rent or value thereof as entered in the valuation roll in accordance with the provisions of the Valuation Acts, but without any deduction therefrom or division thereof under the Rating (Scotland) Act, 1926, "or Part II of the Local Government (Scotland) Act, 1929;

" joint board " means a body corporate, constituted for the purposes of a combination of local authorities under this Act or any other enactment or any statutory order, consisting exclusively of persons appointed by the local authorities;

" joint committee " means a body, not being a body corporate constituted for the purpose of a combination of local authorities under this Act or any other enactment or any statutory order, consisting exclusively of persons appointed by the local authorities;

" land " includes any right or servitude in, to or over land;

" lands and heritages " has the same meaning as in the Valuation Acts;

" landward area ", in relation to a county, means the county excluding any burghs therein;

" large burgh " means any of the burghs mentioned in Part III of the First Schedule to this Act and, save as provided in subsection (4) of section one, includes any of the counties of cities mentioned in Part II of that Schedule;

" levy ", in relation to a rate, includes impose;

" local Act " includes a provisional order under any Act confirmed by Parliament;

" local authority " means a county council, a town council or a district council;

" local government elector " or " elector " means a person registered as a local government elector in the register of electors in accordance with the provisions of the Representation of the People Acts;

" magistrates " includes the provost;

" Minister " means the Secretary of State or other Minister or the General Board of Control or other Government Department, and includes the Electricity Commissioners;

" Minister concerned " means—

- (a) in relation to any transaction relating to land, the Minister concerned with the purpose for which the land is proposed to be acquired or for which the land is held;
- (b) in relation to a combination of local authorities or any joint committee or joint board, the Minister concerned with the purpose for which the combination or joint committee or joint board has or will have effect; and
- (c) in any other case, the Minister concerned with the purpose or function in the case of which the provisions of the particular section of this Act apply or are sought to be applied; and if any question arises under this Act as to which Minister is the Minister concerned the question shall be determined by the Treasury;

" occupier " means the tenant or sub-tenant or any person in the actual occupation of land, but does not include a lodger or a person in the occupation as tenant of a furnished house let for a period less than one year, but includes the person by whom such a furnished house is so let;

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" officer " includes a servant;

" owner ", in relation to land, means the person who, for the time being, receives, or, if the land were let, would be entitled to receive the rent of the land, or who, in the case of land which is unlet, is entitled to occupy the land, and includes any trustee, tutor, curator, factor, agent or other person receiving the rent on behalf of any other person, and also a joint owner and a fiar;

" Poor Law Acts " means the Poor Law (Scotland) Act, 1845, and the Acts amending that Act;

" prescribed " means prescribed by regulations, which regulations shall, unless otherwise provided, be made by the Secretary of State;

" property " includes all property, heritable and moveable, and all rights, interests and servitudes in, to and over property; ,

" public body " includes a local authority and any trustees, commissioners or other persons who as a public body and not for their own profit act under any enactment or statutory order for the improvement of any place or for the supply to any place of water, gas or electricity or for providing or maintaining a market or other public service in any place, and any other authority having power to levy a rate or issue a requisition for payment out of any rate levied for public local purposes;

" Public Health Acts " means the Public Health (Scotland) Act, 1897, and the Acts amending that Act;

" Public Libraries Acts " means the Public Libraries (Scotland) Acts, 1887 to 1920, and the Acts amending those Acts;

" public utility undertaking ", in relation to a local authority, means an undertaking for the provision of water, gas, electricity or transport or any other such revenue-producing service by the authority;

" rate " means any rate, charge and assessment the proceeds of which are applicable to public local purposes and which is leviable in respect of lands and heritages;

" rateable valuation ", in relation to lands and heritages within an area, means the total of the rateable values of the said lands and heritages;

" rateable value " means—

- (a) in the case, of lands and heritages (other than agricultural lands and heritages within the meaning of the Rating and Valuation Apportionment Act, 1928) the gross annual value, subject in appropriate cases to the deductions specified in the First Schedule to the Rating (Scotland) Act, 1926, and to the division directed to be made by paragraph (a) of subsection (1) of section forty-five of the Local Government (Scotland) Act, 1929;
- (b) in the case of agricultural lands and heritages within the meaning of the said Act of 1928, the gross annual value subject to the deduction of eighty-seven and one half per centum thereof;

and, after giving effect in the appropriate cases to the above provisions, subject to any adjustment required to be made in accordance with the provisions of section forty-five of the Burgh Police (Scotland) Act, 1903, or subsection (7) of section twelve of the Rating (Scotland) Act, 1926, or any corresponding provisions of a local Act;

" refer ", in relation to a committee appointed by a local authority, means remit to the committee for consideration and report to the authority but without power to the committee to exercise any function on behalf of the authority,

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and the expressions " reference " and " stand referred " shall be construed accordingly;

" register ", in relation to a security of a local authority, means any register kept under Part XII of this Act or under any regulations made thereunder and includes any book kept by the authority for the purpose of recording therein, entries with respect to the title to and notifications relating to the security;

" Registration of Births, Deaths and Marriages Acts " means the Registration of Births, Deaths and Marriages (Scotland) Acts, 1854 to 1938, and the Acts amending those Acts;

" resealed " in relation to a probate or letters of administration, means produced in the commissary court of the county of Midlothian and certified by the commissary clerk of that court or sealed with the seal of that court in accordance with any enactment regulating the same;

" Roads and Bridges Acts " means the Roads and Bridges (Scotland) Act, 1878, and the Acts amending that Act;

" salary " includes allowances;

" sale " includes a sale in consideration of a ground annual or other periodical payment, and the expressions sell " and " purchase " shall be construed accordingly;

" security ", in relation to a local authority, means a mortgage, a cash credit bond, a deposit receipt or other document of debt issued by the authority and the security created thereby (including stock created by the authority or a certificate in respect of such stock) whether under this Act or any other enactment or any statutory order or any enactment repealed by this Act, but does not include a local bond under section seventy-one of, and the Fourth Schedule to, the Housing (Scotland) Act, 1925, or under any enactment repealed by that Act, or a bond and disposition in security or other deed of security or document of debt affecting the common good of a burgh, except a document of debt for money borrowed for common good purposes under a statutory borrowing power

" senior bailie " means the bailie who has been longest in office since his last election as bailie and, where more than one bailie is elected at the same time, means the bailie whom the town council determine to be senior bailie under Part I of this Act;

" small burgh " means any burgh other than a large burgh or a county of a city;

" statutory borrowing power " means any power to borrow money conferred on a local authority by this Act or any other enactment or any statutory order or by any enactment repealed by this Act, but does not include the power of the town council of a burgh to borrow for the purposes of the common good other than purposes for which the council are authorised to borrow by or under any enactment;

" statutory order " means any order, rule or regulation made under any enactment, and includes any scheme made under the Highlands and Islands (Medical Service) Grant Act, 1913;

" statutory undertakers " means any persons (including a local authority) authorised by any enactment or statutory order or any scheme made, under or confirmed by an enactment to construct, work or carry on any railway, light railway, tramway, road transport, water transport, canal, inland navigation, dock, harbour, pier or lighthouse undertaking or any undertaking for the supply of gas, electricity, hydraulic power or water;

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" trustee securities " means investments in which trustees are by the law of Scotland authorised to invest, and includes, in the case of a local authority making an investment, any trustee securities created or issued by the authority themselves;

" Valuation Acts " means the Lands Valuation (Scotland) Act, 1854, and the Acts amending that Act;

" working capital ", in relation to a public utility undertaking, means money required from time to time to carry on the undertaking, other than money required to meet expenditure of a capital nature.

- (2) Where a county council exercise any function within a burgh, the burgh shall for the purposes of that function be deemed to be within the county.
- (3) Where in this Act provision is made for a consent, sanction, or approval by the Secretary of State or other Minister, such consent, sanction or approval may be given subject to such conditions as the Secretary of State or other Minister may determine, and failure to comply with any condition so imposed shall operate as if the consent, sanction or approval had not been given as respects the matter in which the failure occurred.
- (4) References in this Act to regulations made, approval given or other thing done by the Secretary of State shall be deemed to include references to regulations made, approval given or other thing done before the commencement of this Act by any Government Department whose functions have been transferred to and are at the commencement of this Act vested in the Secretary of State.
- (5) References in this Act to a local Act shall be construed as references to such Act only in its application to the local authority or area to which it applies.
- (6) Unless the context otherwise requires, any reference in this Act to an enactment contained in the Burgh Police Acts or in the Town Councils (Scotland) Acts, 1900 to 1923, shall be construed as including a reference to that enactment as applied or adopted by a local Act or by a resolution passed under statutory authority.
- (7) Unless the context otherwise requires, any reference in this Act to any enactment shall be construed as a reference to that enactment as amended or extended by any subsequent enactment including this Act.

380 Interpretation as respects Crown rights.

The mention in this Act in relation to any particular matter of His Majesty's royal prerogative shall not be held to prejudice or affect in relation to that of any other matter the general application of any rule of law with respect to any estate, right, power, privilege or exemption of the Crown.

381 Repeals.

- (1) Subject to the provisions of this Act, the enactments mentioned in the Fourteenth Schedule to this Act shall be repealed to the extent specified in the third column of that Schedule:

Provided that—

- (i) nothing in this repeal shall affect any byelaw in force at the commencement of this Act, and any such byelaw which is of such a nature that it could have

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- been made under this Act shall have effect as if made under this Act, and may be amended or revoked and enforced accordingly;
- (ii) in the case of a byelaw which has been made before the commencement of this Act but which, by reason of its not having been confirmed or of the time for disallowance not having expired, is not in force at that date, the same proceedings may be taken and with the same effect as if this Act had not been passed;
 - (iii) if at the commencement of this Act a casual vacancy has occurred in any office, and the vacancy has not been filled, the vacancy shall be filled in the same manner as if this Act had not been passed;
 - (iv) nothing in this repeal shall affect any steps taken before the commencement of this Act with respect to the formation, alteration, combination or dissolution of special districts under any enactment repealed by this Act, and any such steps and any opposition thereto may be continued and followed forth as if this Act had not been passed;
 - (v) nothing in this repeal shall affect any proceedings instituted before the commencement of this Act for the alteration of the boundaries of the area of a local authority or for the formation of a burgh under any enactment repealed by this Act, and such proceedings and any opposition thereto may be continued and followed forth as if this Act had not been passed;
 - (vi) nothing in this repeal shall affect any legal proceedings instituted before the commencement of this Act under or by virtue of any enactment repealed by this Act, and such proceedings may be continued and appealed against as if this Act had not been passed;
 - (vii) in so far as any appointment, agreement, order, scheme, rule or regulation made or resolution passed, direction or notice given, or other thing done under or by virtue of any enactment repealed by this Act could have been made, passed, given or done under or by virtue of a corresponding provision of this Act, it shall not be invalidated by this repeal but shall have effect as if it had been made, passed, given or done under or by virtue of that corresponding provision, and may be amended, revoked or enforced accordingly;
 - (viii) notwithstanding anything in this section, the enactments repealed by this Act relating to the audit of accounts and other matters mentioned in Part X of this Act shall continue to have effect with respect to the accounts of local authorities for the period prior to the first financial year to the accounts for which the provisions of the said Part X apply;
 - (ix) nothing in this repeal shall affect any rates levied by a local authority under any enactment repealed by this Act, or the liability of any person to the authority for payment of such rates, and any such rates may be recovered in like manner as if this Act had not been passed;
 - (x) nothing in this repeal shall affect any requisition issued by a requisitioning authority within the meaning of Part XI of this Act to a rating authority within the meaning of that Part under any enactment repealed by this Act, or the liability of the rating authority to make payment to the requisitioning authority of the sum due thereunder, and such sum may be recovered in like manner as if this Act had not been passed;
 - (xi) nothing in this repeal shall affect any statutory borrowing power exercised by a local authority under any enactment repealed by this Act in respect of which any money borrowed is outstanding at the commencement of this Act, or any security created by the authority in respect of such outstanding money, and such statutory borrowing power and security shall continue to have effect so

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far as regards such outstanding money as if the statutory borrowing power were contained in this Act, so however that all money borrowed under the said power shall be repaid within the period specified in the repealed enactment relating thereto;

- (xii) notwithstanding this repeal, any property or liabilities held or incurred or treated as incurred by a local authority immediately before the commencement of this Act shall continue to be held or incurred or treated as incurred by the authority for the same purposes and subject to the same trusts as they were immediately before the commencement of this Act, and any contract or other document which might have been enforced by or against a local authority immediately before the commencement of this Act shall continue to be enforceable by or against that authority;
 - (xiii) nothing in this repeal shall affect any compensation payable or any title to compensation under any enactment repealed by this Act, whether as originally enacted or as applied by any other enactment or statutory order.
- (2) Any resolution by a town council under section one hundred and nine of the Town Councils (Scotland) Act, 1900, shall cease to have effect, and any enactment in a local Act having the same effect as such a resolution is hereby repealed.
 - (3) Funds and accounts under this Act shall be deemed to be in continuation of the corresponding funds and accounts under the enactments repealed by this Act.
 - (4) Any document referring to any Act or enactment repealed by this Act shall be construed as referring to this Act or to the corresponding enactment, if any, in this Act.
 - (5) The mention of particular matters in this section shall not be held to prejudice or affect the general application of section thirty-eight of the Interpretation Act, 1889, with regard to the effect of repeals.

382 Short title, commencement and extent.

- (1) This Act may be cited as the Local Government (Scotland) Act, 1947, and shall come into operation on the first day of October, nineteen hundred and forty-seven.
- (2) This Act shall, except where otherwise expressly provided, extend only to Scotland.