



Local Government (Scotland) Act 1947

1947 CHAPTER 43

PART XX

GENERAL.

Contracts and Obligations.

336 Contracts and obligations of local authorities.

- (1) A local authority may enter into any contract necessary for the discharge of any of their functions.
- (2) A local authority shall not grant any obligation, contract any debt, enter into any contract or agreement or execute any deed unless the same shall have been authorised by the authority or by a committee thereof or a person duly empowered by the authority, and in the case of contracts for the supply of goods or materials or for the execution of works, standing orders of the authority shall—
 - (a) require that, except as otherwise provided by or under the standing orders, notice of the intention of the authority or committee or person, as the case may be, to enter into the contract shall be published and tenders invited; and
 - (b) regulate the manner in which such notice shall be published and tenders invited:

Provided that a creditor in any such obligation or debt or a person entering into a contract or agreement with a local authority or a person transacting on the faith of a deed executed by a local authority shall not be bound to inquire whether the same has been duly authorised as aforesaid, and all such obligations, debts, contracts, agreements and deeds granted, contracted, entered into or executed by a local authority if otherwise valid shall have full force and effect, notwithstanding that the same have not been duly authorised in accordance with the provisions of this section.

337 Protection for members and officers of local authority in relation to obligations, and &c.

No member or officer of a local authority shall be personally liable for the fulfilment of any obligation undertaken or contract or agreement made by the authority or for the repayment of any money borrowed by the authority whether under this Act or any other enactment or any statutory order or otherwise.

Travelling Expenses, &c. of Members of County Council.

338 Payment of travelling expenses, and &c. of members of county council.

- (1) A county council may if they think fit pay allowances at such rates, not exceeding the rates set out in the Twelfth Schedule to this Act, as the council may fix in respect of travelling and other personal expenses necessarily incurred and time necessarily lost from ordinary employment by members of the council or of any committee or sub-committee thereof in attending meetings of such council, committee or sub-committee.
- (2) Any such expenditure, as aforesaid incurred in respect of meetings of the council shall be defrayed in like manner as general expenses of the council, and any expenditure incurred in respect of meetings of a committee or sub-committee shall be defrayed in like manner as expenditure on the functions for which the committee or sub-committee are appointed.
- (3) For the purposes of this section—
 - (a) any body of persons, whether members of the council or not, constituted by a county council to advise or assist them in the execution of any of their functions relating to education shall be deemed to be a committee of that council; and
 - (b) a committee all the members of which, other than any ex officio members, are appointed by a county council shall, where the expenses of the committee are defrayed wholly or partly by the, council, be deemed to be a committee of that council as respects the members of the committee appointed by the council.

Expenditure by County Council and Town Council on Special Purposes.

339 Expenditure by county council and town council on special purposes.

- (1) A county council or a town council may with the approval of the Secretary of State make any payment for any purpose which in the opinion of the council is in the interests of the council or of the area of the council or any part thereof or of the inhabitants thereof:

Provided that—

- (a) the total payments so made by a council in any one year shall not exceed the produce of a rate of two pence per pound on the rateable valuation of the area of the council; and
- (b) nothing in this subsection shall apply to any payment for any purpose in pursuance of any power otherwise competent to the council under any enactment or statutory order.

- (2) The total payments which may be made in any year by a county council under this section shall be calculated by reference only to the landward area of the county.
- (3) Any payment made under this section shall be defrayed as part of such branch or branches of expenditure as the council may determine, having regard to the purpose for which the payment is made, so however that a county council may not treat any such payment as part of a branch of expenditure for the purpose of which any burgh is included within the county.

Acceptance of Gifts.

340 Acceptance of gifts of property.

- (1) A local authority may accept, hold and administer any gift of property whether heritable or moveable for any local public purpose or for the benefit of the inhabitants of the area of the authority or of some part thereof, and may execute any works (including works of maintenance or improvement) incidental to or consequential on the exercise of the powers conferred by this section.
- (2) Where the purposes of the gift are purposes for which the local authority are empowered to expend money raised from a rate, they may, subject to any condition or restriction attaching to the exercise of that power, defray expenditure incurred in the exercise of the powers conferred by the preceding subsection out of money so raised.

Transfer of Stock on Change of Name of Local Authority, &c.

341 Transfer of stock on change of name of local authority, and &c.

- (1) Where any stock is standing in the books of a company in the name of a local authority in Scotland the following provisions shall have effect:—
 - (a) if the name of the authority is changed, then on the request of the authority and on production of a statutory declaration by the clerk of the authority specifying the stock and verifying the change of name and identity of the authority, the company shall enter the stock in the new name of the authority in like manner as if the stock had been transferred to the authority under that name;
 - (b) if by virtue of anything done under or in accordance with the provisions of this Act any other local authority, in Scotland have become entitled to the stock or any dividends thereon, a certificate by the county clerk of the county in which the area of that other authority is situated or, where the county council is that other authority, a certificate by or on behalf of the Secretary of State, shall be a sufficient authority to the company to transfer the stock into the name of the local authority specified in that behalf in the certificate and to pay the dividends to that authority;
 - (c) if in any other case any other local authority in Scotland have become entitled to the stock or any dividends thereon, the Court of Session may on the petition of that other authority make an order vesting in that other authority the right to transfer the stock or to receive the dividends.
- (2) In this section the expression—
 - " company " includes the Bank of England and any company or person keeping books in which any stock is registered or inscribed ;

Status: This is the original version (as it was originally enacted).

" stock " includes any share, annuity or other security.

- (3) This section shall extend to England and Wales as well as to Scotland.

Execution of Deeds and Use of Seal.

342 Execution of deeds by local authority and use of seal.

- (1) Save as otherwise provided in this Act, a deed to which a county council or a town council are a party shall be held to be validly executed on behalf of the council if it is sealed with the common seal of the council and subscribed on behalf of the council by two members of the council and the clerk of the council, whether attested by witnesses or not, or if it is executed in such other manner as may be provided in a local Act.
- (2) Save as otherwise provided in this Act, a deed to which a district council are a party shall be held to be validly executed on behalf of the council—
- (a) where the council have a common seal, if it is sealed with the common seal of the council and subscribed on behalf of the council by two members of the council and the clerk of the council, whether attested by witnesses or not;
 - (b) in any other case, if it is subscribed on behalf of the council by two members of the council and the clerk of the council, and attested by witnesses.
- (3) The seal of a county council or town council or, where a district council have a common seal, the seal of the district council may be affixed to a deed or other document if authority to affix the seal to the deed or other document has been given at a meeting of the council, or has been given otherwise in accordance with standing orders of the council:

Provided that a person entering into any transaction with any such council shall not be bound to inquire whether authority to affix the seal has been given in accordance with the provisions of this subsection, and all deeds executed by such a council if otherwise valid shall have full force and effect notwithstanding that such authority may not have been given.

Legal Proceedings, Notices, &c.

343 Legal proceedings for protection of inhabitants of area.

A county council or a town council may institute or defend any legal proceedings for the promotion or protection of the interests of the inhabitants of their area or any part thereof.

344 Offences against byelaws may be prosecuted by local authority.

Any offence against any byelaw made by a local authority by virtue of section three hundred of this Act or the corresponding enactment repealed by this Act may be prosecuted and the expenses of the proceedings may be recovered at the instance of the authority under the Summary Jurisdiction (Scotland) Acts, and every fine or penalty recovered by a local authority in any such proceedings shall be applied as the authority shall determine.

345 Appearance on behalf of local authority in legal proceedings.

Subject to the provisions of subsection (4) of section eighty-four of this Act, it shall be lawful for the clerk of a local authority and also, if duly authorised by resolution of the authority either generally or in respect of any special proceeding, for any other officer of the authority or any other person to appear on behalf of the authority before a court of summary jurisdiction in any proceedings instituted by them, and the clerk or any other officer or other person so authorised shall be entitled to conduct any such proceedings on behalf of the authority although he is not a practising solicitor.

346 Service of legal proceedings and notices on local authority or officers.

Any legal proceedings against a local authority shall be deemed to have been duly served on the authority if served on the clerk of the authority and any notice, order, demand or other document required or authorised by this Act or any other enactment or any statutory order to be sent, delivered or served to or upon a local authority or upon the clerk or other officer of a local authority shall be addressed to the authority or to the clerk or other officer, as the case may be, and left or sent by post in a prepaid letter, in the case of the authority or the clerk, at or to the principal offices of the authority, and in the case of any other officer, at or to the principal offices of the authority or his place of residence.

347 Authentication of notices by local authority.

- (1) Any notice, order, demand, requisition or other such document by a local authority required or authorised by this Act or any other enactment or any statutory order or byelaw shall, except in so far as any such other enactment or statutory order specifically otherwise provides, be signed by the clerk of the authority or authenticated in such other manner as the authority may by standing order or otherwise direct, and subject to the provisions of any such other enactment or statutory order, any such notice or other document may be withdrawn by a notice similarly authenticated.
- (2) Any document purporting to bear the signature of the clerk of a local authority or of an officer expressed to be duly authorised by the authority to sign such a document or the particular document shall, for the purposes of any enactment or statutory order relating to any function of the authority, or any regulations, order or byelaws thereunder, be deemed, until the contrary is proved, to have been duly given, made or issued by authority of the local authority.

In this subsection the expression "signature" includes a facsimile of a signature by whatever process reproduced.

348 Claims in sequestrations and liquidations.

The clerk or treasurer of a local authority or any other officer authorised by the authority for the purpose may sign on behalf of the authority any claim in any sequestration, liquidation or other such proceedings in which the authority are entitled to make a claim, and may act on behalf of the authority in connection with that claim in all respects.

349 Service of notices, and &c. by local authority or officer.

(1) Without prejudice to the provisions of any local Act, any notice, order, demand, requisition or other such document by a local authority or by an officer of a local authority required or authorised by this Act or any other enactment or any statutory order or byelaw (other than a notice with respect to the compulsory purchase of land) may (except in so far as any such other enactment or statutory order otherwise specifically provides) be served—

(a) by being sent by post in a prepaid letter or delivered to or at the residence or place of business of the person to whom it is addressed :

Provided that in the case of a person employed on any ship or vessel it shall be delivered to some person on board thereof and connected therewith; or

(b) in the case of an incorporated company or body by being sent by post in a prepaid letter addressed to the secretary or clerk of the company or body at their registered or principal office or by delivering it to him at that office; or

(c) where the notice or other document relates to premises and the owner thereof resides beyond the area of the authority, by being sent by post in a prepaid letter or delivered to or at the place of business of his known factor or agent or the person drawing the rents of the premises; or

(d) where the notice or other document relates to premises and the authority are unable after reasonable inquiry to ascertain the address of the person upon whom it should be served, by addressing it to him—

(i) by name, if his name is known; or

(ii) if his name is not known, by the description of " owner " or " occupier " of the premises (naming them) to which it relates;

and by delivering it to some person on the premises, or if there is no person on the premises to whom it can be delivered, by affixing it or a copy thereof to some conspicuous part of the premises.

(2) Service of a copy of any such notice, order, demand, requisition or other document shall be deemed to be service of the principal document.

(3) Service of any such notice, order, demand, requisition or other document may be proved by a certificate under the hand of the person who posted or delivered or affixed the same attested by one witness who was present at such posting, delivery or affixing.

(4) Where any such notice, order, demand, requisition or other document authorised or required by this Act or any other enactment or any statutory order or byelaw relates to premises and the authority are unable after reasonable inquiry to ascertain the name and address of the owner of the premises, then if there is no known factor, agent or person drawing the rents, such notice or other document may be addressed to the occupier or any of the occupiers of the premises, and such occupier shall in all respects take burden for the owner, so however that he shall not be liable to make payment under this section of any sum in excess of the sum which he is liable to pay in respect of rent of the premises nor shall he be required to make payment of any sum before the sum in respect of rent is due and payable, and any sum so paid by the occupier shall be deemed to be a payment to account of rent.

350 Evidence of resolutions, and &c. by local authority.

(1) Save as otherwise provided in any other enactment or any statutory order relating to any particular function, production of a copy of or an extract from any minute of

meeting of a local authority or a committee thereof or a copy of any resolution passed by a local authority or a committee thereof or of any rules or regulations (other than byelaws) made by a local authority under this Act or any other enactment or any statutory order upon which is endorsed a certificate purporting to be signed by the clerk of the authority stating that the copy of or extract from the minute of meeting is a true copy or extract or that the resolution was passed at a specified meeting of the authority or committee, as the case may be, or that the rules and regulations were made by the authority in accordance with the provisions of this Act or any other enactment or any statutory order relating thereto shall, until the contrary is proved, be evidence of the facts stated in the certificate and that in the case of a resolution passed by a committee the committee had power to pass such a resolution, without proof of the handwriting or official position of any person purporting to sign a certificate in pursuance of this subsection.

- (2) References in this section to a committee shall in the case of a town council be construed as including references to the magistrates of the burgh.

351 Public notices.

A public notice required to be given by a local authority under this Act or any other enactment or any statutory order shall, save as otherwise expressly provided therein, be given—

- (a) by displaying the notice conspicuously at or near the principal entrance to the offices of the authority; and
- (b) by posting the notice in some conspicuous place or places within the area of the authority or by inserting a copy of the notice in a newspaper circulating in the area of the authority; and
- (c) in such other manner, if any, as appears to the authority to be desirable for giving publicity to the notice.

352 Misnomers, and &c. not to affect validity of notices, and &c.

No misnomer or inaccurate description of any person or place, omission, mistake or informality in any notice or other document under or for the purposes of this Act shall affect the full operation of the notice or other document if the person or place mentioned is so designated as to be commonly understood, and such omission, mistake or informality is not such as to defeat the object of the notice or other document or cause substantial injustice to any person affected thereby.

Custody of Records and Documents.

353 Custody of records and documents.

- (1) Subject to any administrative scheme and to any general directions which the council may give, the county clerk, the town clerk of a burgh and the clerk of a district council, shall have the charge and custody of and be responsible for all charters, deeds, records and other documents belonging to the council or to the county, burgh or district, as the case may be.
- (2) Nothing in this section shall affect the power of a local authority under section five of the Public Records (Scotland) Act, 1937, to transmit any of their records to the Keeper of the Registers and Records of Scotland for custody.

*Reports and Returns.***354 Reports and returns.**

Every local authority and every joint committee or joint board shall make to the Minister concerned such reports and returns and give him such information with respect to their functions as the Minister may require, or as may be required by either House of Parliament.

*Local Inquiries.***355 Provisions as to local inquiries.**

- (1) Where a Minister is authorised to determine any difference, to make or confirm any order, rules, regulations or byelaws, to make any adjustment, to frame any scheme or to give any consent, confirmation, sanction or approval to any matter or otherwise to act under this Act or any other enactment or any statutory order relating to the functions of a local authority or is authorised or required to inquire into any matter or hold an inquiry under this Act or any other enactment or any statutory order relating to the functions of a local authority, he may or shall, as the case may be, cause a local inquiry to be held, and the provisions of this section shall apply to such local inquiry.
- (2) Save as otherwise provided in any enactment or any statutory order that may be applicable, the Minister may appoint an officer of his department or any other person to conduct the inquiry and to report thereon to him.
- (3) The person appointed to hold the inquiry shall cause notice of the time and place of the inquiry to be given to the bodies and persons appearing to him to be interested.
- (4) For the purpose of any such inquiry, the person appointed to hold the inquiry may by notice in writing—
 - (a) require any person to attend at the time and place set forth in the notice to give evidence or to produce any books, documents and accounts in his custody or under his control which relate to any matter in question at the inquiry;
 - (b) require any local authority or person to furnish within such reasonable period as is specified in the notice such returns and such information relating to the matter in question as the person appointed to hold the inquiry may think fit and as the authority or person is able to furnish:

Provided that—

- (i) no person shall be required in obedience to such a notice to go more than ten miles from his place of residence unless the necessary expenses of his attendance are paid or tendered to him; and
 - (ii) nothing in this subsection shall empower the person appointed to hold the inquiry to require any person to produce any book or document or to answer any question which he would be entitled, on the ground of privilege or confidentiality, to refuse to produce or to answer if the inquiry were a proceeding in a court of law.
- (5) The person appointed to hold any such inquiry may administer oaths to witnesses and examine witnesses on oath and may accept, in lieu of evidence on oath by any person, a statement in writing by that person.

- (6) Any person who refuses or wilfully neglects to attend in obedience to a notice under this section or to give evidence, or who wilfully alters, suppresses, conceals, destroys or refuses to produce any book, document or account which he may be required to produce for the purposes of this section, or who refuses or wilfully neglects to comply with any requirement under subsection (4) of this section of the person appointed to hold the inquiry shall be liable on summary conviction to a fine not exceeding five pounds and for the second and every subsequent offence to a fine not exceeding twenty pounds nor less than five pounds.
- (7) The Minister causing the inquiry to be held may if he thinks fit pay such expenses of witnesses and such expenses of or concerning the production of any books, documents or accounts or the furnishing of returns or information as to him seems reasonable, and such expenses shall be deemed to be part of the expenses of the inquiry.
- (8) The expenses incurred by a Minister in relation to any such inquiry (including such reasonable sum not exceeding five guineas a day as he may determine for the services of any officer of a government department engaged in the inquiry) shall, unless he is of opinion having regard to the object and result of the inquiry that the expenses should be defrayed in whole or in part by him, be paid by such local authority or party to the inquiry as he may direct, and the Minister may certify the amount of the expenses so incurred, and any sum so certified and directed by him to be paid to him by any authority or person shall be a debt due by that authority or person to the Crown and shall be recoverable accordingly.
- (9) The Minister causing an inquiry to be held may make an award as to the expenses of the parties at the inquiry, and as to the parties by whom such expenses shall be paid.
- (10) Provisions in any enactment applying with or without modifications the provisions of section ninety-three of the Local Government (Scotland) Act, 1889, relating to local inquiries shall cease to have effect, but, save as aforesaid, the provisions of this section shall not apply in the case of a local inquiry held under any enactment or a statutory order where the enactment or order contains provisions with regard to such inquiries.

Provision for Default of Local Authority.

356 Provision for default of local authority.

- (1) If a complaint is made to the Minister concerned that a local authority have failed to do what is required of them by or under this Act or any other enactment or any statutory order or the Minister concerned is of opinion that an investigation should be made as to whether a local authority have so failed, he may cause a local inquiry to be held into the matter.
- (2) If after such a local inquiry the Minister concerned is satisfied that there has been such a failure on the part of the authority in question, he may make an order declaring the authority to be in default and directing them for the purpose of remedying the default to take such steps and within such time or times as may be specified in the order.
- (3) If the authority declared to be in default by such an order fail to comply with any requirement thereof within the time limited thereby for compliance with that requirement, the Court of Session may, on the application of the Lord Advocate on behalf of the Minister concerned, order specific performance of the functions in respect of which there has been default, and do otherwise as to the Court appears to be just.

- (4) Nothing in this section shall affect the provisions of any other enactment relating to the enforcement of a statutory duty whether under that enactment or otherwise.

Charitable Trusts, Parish Trusts, &c.

357 Election of trustees under certain Acts, charters, and &c.

Where any trust, management or direction of any charitable or other institution is by the terms of any enactment or any charter or deed of foundation or other deed conferred or imposed on any members of a town council under the denomination of old provost, old bailie, old dean of guild or of merchants or trades bailies or merchants or trades councillors or under some other denomination, the town council shall from time to time nominate and elect from their own body such a number of persons to be such trustees, managers or directors as are by such enactment, charter or deed appointed to those offices under any of the said denominations, and the whole functions belonging to the said offices of trustees, managers or directors shall belong to and be as fully vested in the persons so elected as if they had possessed the denominations used in the said enactment, charter or deed.

358 Trusts vested in deacons, and &c.

Where any trust, management or direction of any charitable or other institution is vested in any number of deacons or in a deacon convener or convener of trades or in any dean of guild or other office bearers elected by the several crafts, trades, guildries or merchants or trades houses, then and in all such cases the persons so elected as such deacons, conveners, deans of guild or other, officers shall be and continue trustees and managers of such charities or institutions whether such persons are members of town council or not, and the town councils shall in no such case have power to elect from their own body any other trustees or managers in place of such deacons, conveners, deans of guild, or other officers:

Provided that in any burgh in which trades, councillors or merchant councillors are or may be ex officio trustees or directors of any such institutions or charities, the conveyery or trades house and the guildry or merchants house in such burghs shall elect an equal number from their own bodies respectively to be such trustees or directors notwithstanding anything in this Act to the contrary.

359 Parish trusts.

- (1) Where trustees hold any property wholly or: mainly for the benefit of the inhabitants of any parish or two or more parishes within the area of a council concerned, or any of the inhabitants as such inhabitants or for any such purpose connected with any parish or two or more such parishes (other than for an ecclesiastical charity, or for the use or benefit of the poor of the parish within the meaning of section fifty-two of the Poor Law (Scotland) Act, 1845) they may transfer the property to the council concerned within the meaning of this section or to persons to be from time to time appointed by that council, and the council concerned, if they accept the transfer, or the persons whom they appoint shall hold the property on the trusts and subject to the conditions on which the trustees held the property immediately prior to the transfer.
- (2) Any property vested in a council concerned or in trustees appointed by a council concerned by virtue of any enactment repealed by this Act corresponding to the

foregoing subsection shall be held by the council or the trustees, as the case may be, on the trusts and subject to the conditions on which they held the property immediately prior to the commencement of this Act.

- (3) In the event of any such property not being transferred to the council concerned under and subject to the provisions of subsection (1) of this section or the corresponding enactment repealed by this Act, the council concerned may from time to time appoint such number of additional persons to act along with the trustees of the said property as the trustees and the council may agree or in default of agreement as may be determined by the Secretary of State in each case:

Provided that, where the trustees of any such property are elected by or include persons elected by the local government electors or inhabitants of the parish or parishes or are members of any local authority whose area includes the parish or parishes or any part thereof, the provisions of this subsection shall not apply unless the Secretary of State by order so determines.

- (4) Where the trustees of any such property are the kirk session or the heritors and kirk session of any parish or the kirk session or deacons court or managers or vestry of a congregation belonging to any religious denomination, to the number, whether alone or conjoined with others, of not less than six persons, the said trustees shall from time to time appoint certain of their own number not exceeding three, and the council concerned shall from time to time appoint such number of additional persons as the Secretary of State may in each case approve, to act together as a committee of management of the said property, and the management of the property shall be transferred to the committee accordingly.
- (5) Where trustees hold any property for the benefit of the inhabitants of, or for any public purpose (other than as hereinbefore mentioned) connected with, two or more parishes and there are two or more councils concerned, the councils concerned may if the Secretary of State so decides from time to time appoint, in such manner or rotation and subject to such conditions as may be determined in any order of the Secretary of State, such number of additional persons to act as trustees of the said property as may be approved by the Secretary of State in each case.
- (6) The term of office of a trustee appointed under this section shall not be longer than three years, but a trustee shall hold office until his successor is appointed and shall be eligible for re-appointment.
- (7) The Secretary of State may by order make rules—
- (a) as to the form in which the accounts of any property to which this section applies shall be kept; and
 - (b) as to the publication of such accounts.
- (8) While a person is trustee of any property or revenues falling within the provisions of this section, neither he nor his spouse nor any of his children shall receive any benefit therefrom.
- (9) The provisions of this section with respect to the appointment of trustees shall not apply to any charity until the expiration of forty years from the date of the foundation thereof.
- (10) The expression " council concerned " means—
- (a) if the trust (not being a trust with respect to the poor or to churchyards or to burial grounds) relates to a landward parish, the district council of the district

in which the parish is situated, or if such a trust relates to a parish containing a landward part, then, so far as the trust relates to the landward part, the district council of the district in which the landward part is situated;

- (b) if the trust relates to a churchyard or burial ground situated within a small burgh, the town council of the burgh;
- (c) in any other case, the county council of the county or the town council of the large burgh in which the parish is situated;

and where in any case under paragraph (a) or (c) hereof the parish is situated in the areas of two or more such councils, the expression includes the two or more councils.

(11) Nothing in this section shall apply to an educational endowment.

360 Saving as to election of deacon convener, and &c.

Nothing in this Act shall be held or construed to impair the right of any craft, trade, convenery of trades or guildry or merchants house or trades house or other such corporation severally to elect their own deacons or deacon convener Or dean of guild or directors or other lawful officers for the management of the affairs of such craft, trade, convenery of trades, or guildry, merchants or trades house or other such corporation, but on the contrary the said several bodies shall be in all cases entitled to the free election in such form as shall be regulated by them of the said several office bearers and other necessary officers for the management of their affairs without any interference or control whatsoever on the part of the town council or any member thereof.

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.

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

Status: This is the original version (as it was originally enacted).

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

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

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

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

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."

- (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

Status: This is the original version (as it was originally enacted).

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 ;

Status: This is the original version (as it was originally enacted).

" 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;

Status: This is the original version (as it was originally enacted).

" 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,

Status: This is the original version (as it was originally enacted).

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;

Status: This is the original version (as it was originally enacted).

" 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

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

Status: This is the original version (as it was originally enacted).

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.