



# Local Government (Scotland) Act 1973

## 1973 CHAPTER 65

### PART VI

#### MISCELLANEOUS POWERS OF LOCAL AUTHORITIES

##### *Subsidiary powers*

#### **69 Subsidiary powers of local authorities**

- (1) Without prejudice to any powers exercisable apart from this section but subject to the provisions of this Act and any other enactment passed before or after this Act, a local authority shall have power to do any thing (whether or not involving the expenditure, borrowing or lending of money or the acquisition or disposal of any property or rights) which is calculated to facilitate, or is conducive or incidental to, the discharge of any of their functions.
- (2) A local authority shall not by virtue of this section raise money, whether by means of rates or borrowing, or lend money except in accordance with the enactments relating to those matters respectively.
- (3) Without prejudice to section 53 of the Countryside (Scotland) Act 1967 (contributions by or to local authorities), two or more local authorities may make arrangements for defraying any expenditure incurred by one of them in exercising any functions exercisable by both or all of them.

##### *Land transactions*

#### **70 Acquisition of land by agreement**

- (1) For the purposes of—
  - (a) any of their functions under this or any other enactment, or
  - (b) the benefit, improvement or development of their area,

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a local authority may acquire by agreement any land, whether situated inside or outside their area.

- (2) A local authority may acquire by agreement any land for any purpose for which they are authorised by this or any other enactment to acquire land, notwithstanding that the land is not immediately required for that purpose; and, until it is required for the purpose for which it was acquired, any land acquired under this subsection may be used for the purpose of any of the authority's functions.
- (3) For the purpose of the purchase of land by agreement by a local authority, the Lands Clauses Acts (except so much thereof as relates to the acquisition of land otherwise than by agreement, and the provisions relating to access to the special Act, and except sections 120 to 125 of the Lands Clauses Consolidation (Scotland) Act 1845), and section 6 and sections 70 to 78 of the Railways Clauses Consolidation (Scotland) Act 1845 (as originally enacted and not as amended by section 15 of the Mines (Working Facilities and Support) Act 1923) are hereby incorporated with this section, and, in construing those Acts for the purposes of this section, this section shall be deemed to be the special Act and the local authority shall be deemed to be the promoters of the undertaking or company, as the case may require.
- (4) Where two or more local authorities acting together would have power to acquire any land by agreement by virtue of this section, nothing in any enactment shall prevent one of those authorities from so acquiring the land on behalf of both or all of them in accordance with arrangements made between them, including arrangements as to the subsequent occupation and use of the land.
- (5) References in the foregoing provisions of this section to acquisition are references to acquisition by purchase, feu, lease or excambion.

## **71 Acquisition of land compulsorily**

- (1) Subject to subsection (2) below, for the purposes of any of their functions under this or any other enactment, a local authority may be authorised by the Minister concerned with the function in question to purchase compulsorily any land, whether situated inside or outside their area.
- (2) A local authority may not be authorised under subsection (1) above to purchase land compulsorily for any purpose in relation to which their power of acquisition is by any enactment expressly limited to acquisition by agreement.
- (3) Where one or more local authorities propose, in exercise of the power conferred by subsection (1) above, to acquire any land for more than one purpose, the Minister or Ministers whose authorisation is required for the exercise of that power shall not be concerned to make any apportionment between those purposes nor, where there is more than one local authority, between those authorities, and—
  - (a) the purposes shall be treated as a single purpose and the compulsory acquisition shall be treated as requiring the authorisation of the Minister, or the joint authorisation of the Ministers, concerned with those purposes ; and
  - (b) where there is more than one local authority concerned, the authorities may nominate one of them to acquire the land on behalf of them all and the authority so nominated shall accordingly be treated as the acquiring authority for the purposes of any enactment relating to the acquisition.

- (4) The Acquisition of Land (Authorisation Procedure) (Scotland) Act 1947 shall apply in relation to the compulsory purchase of land in pursuance of subsection (1) above as if that subsection were contained in an Act in force immediately before the commencement of that Act.

## **72 Title to land**

The title to all land acquired by a local authority shall be taken in the corporate name of the authority.

## **73 Appropriation of land**

- (1) Subject to Part II of the Town and Country Planning (Scotland) Act 1959 and to the following provisions of this section, a local authority may appropriate for the purpose of any function, whether statutory or otherwise, land vested in them for the purpose of any other such function.
- (2) A local authority may not exercise their power of appropriation under subsection (1) above with respect to any land specified in subsection (3)(a) below except with the consent of the Minister concerned with the function for which the land is held immediately before the appropriation, or with respect to any land specified in subsection (3)(b) below except with the consent of the Secretary of State.
- (3) The land to which subsection (2) above applies is—
- (a) land which was acquired not more than ten years before the date of the proposed appropriation in the exercise of compulsory powers by a local authority (including, in respect of an acquisition before 16th May 1975, any existing local authority) and which has not subsequently been appropriated by that or any other local authority for any purpose other than that for which it was acquired; and
  - (b) land which consists or forms part of a common or open space, or is held for use as allotments.

## **74 Disposal of land**

- (1) Subject to Part II of the Town and Country Planning (Scotland) Act 1959 and to subsection (2) below, a local authority may dispose of land held by them in any manner they wish.
- (2) Except with the consent of the Secretary of State, a local authority shall not dispose of land under subsection (1) above for a consideration less than the best that can reasonably be obtained.

## **75 Disposal, etc., of land forming part of the common good**

- (1) The provisions of this Part of this Act with respect to the appropriation or disposal of land belonging to a local authority shall apply in the case of land forming part of the common good of an authority with respect to which land no question arises as to the right of the authority to alienate.
- (2) Where a local authority desire to dispose of land forming part of the common good with respect to which land a question arises as to the right of the authority to alienate,

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they may apply to the Court of Session or the sheriff to authorise them to dispose of the land, and the Court or sheriff may, if they think fit, authorise the authority to dispose of the land subject to such conditions, if any, as they may impose, and the authority shall be entitled to dispose of the land accordingly.

- (3) The Court of Session or sheriff acting under subsection (2) above may impose a condition requiring that the local authority shall provide in substitution for the land proposed to be disposed of other land to be used for the same purpose for which the former land was used.

## **76 Special provisions as to land acquired for public recreation from heir of entail**

Where an heir of entail in possession of land disposes of land to a local authority for the purpose of public recreation under the provisions of this Act or any other enactment (not being land within a quarter of a mile of the mansion house in the natural possession of the heir of entail or part of any garden, orchard or enclosure adjacent to the mansion house which has usually been in the natural possession of the proprietor) and such land does not exceed in all twenty acres, and where the persons in right of heritable securities or other charges affecting such land refuse to consent to such disposal, such lands shall be discharged of the said heritable securities and charges if the sheriff, upon the application of the heir of entail in possession duly intimated to the said persons who shall be entitled to appear and object, finds that the lands comprised in the heritable securities or charges other than the land being acquired by the local authority afford adequate security.

## **77 Payment of purchase or compensation money by one local authority to another**

Any purchase money or compensation payable in pursuance of this Part of this Act by a local authority in respect of land acquired from another local authority which would but for this section be required to be paid into court in manner provided by the Lands Clauses Acts may, if the Minister concerned with the purpose for which the land was held by the last mentioned authority consents, instead of being paid into court, be paid and applied as that Minister may determine, and the decision of that Minister shall be final.

*Buildings, contracts, etc.*

## **78 Power to erect buildings, etc.**

- (1) Subject to subsection (2) below and section 94 of this Act, a local authority may, for the purpose of any of their functions or for the benefit or improvement of their area, erect buildings or execute any other works on any land belonging to them or, where they are satisfied that the terms of the lease of land are such as to make it prudent for them to do so, on land leased by them, or convert, alter, enlarge or improve any existing building or other works belonging to them or, where they consider it prudent, any existing building or other works let to them.
- (2) Subsection (1) above shall not of itself authorise a local authority to do anything contrary to the conditions contained in the title to or lease of any such land or building or other works or authorise land held for one purpose to be used for another purpose.

**79 Provision of offices, etc.**

A local authority may acquire or provide and furnish and maintain halls, offices and other buildings, whether within or without the area of the authority, to be used for the purpose of transacting the business of the authority or the business of any other body for which the authority are required or authorised by or under any enactment to provide accommodation, or for the purpose of public meetings or assemblies.

**80 Interpretation of " functions "**

For the purposes of the foregoing provisions of this Part of this Act, the functions of a local authority shall be deemed to include the provision of accommodation for any committee, court or other body which the authority are required or authorised to provide, notwithstanding that the committee, court or body may exercise functions not vested in the authority.

**81 Contracts of local authorities**

- (1) A local authority may make standing orders with respect to the making of contracts by them or on their behalf.
- (2) A local authority shall make standing orders with respect to the making by them or on their behalf of contracts for the supply of goods or materials or for the execution of works.
- (3) Standing orders made by a local authority with respect to contracts for the supply of goods or materials or for the execution of works shall include provision for securing competition for such contracts and for regulating the manner in which tenders are invited, but may exempt from any such provision contracts for a price below that specified in standing orders and may authorise the authority to exempt any contract from any such provision when the authority are satisfied that the exemption is justified by special circumstances.
- (4) A person entering into a contract with a local authority shall not be bound to inquire whether the standing orders of the authority which apply to the contract have been complied with, and non-compliance with such orders shall not invalidate any contract entered into by or on behalf of the authority.
- (5) In this section the expression " contracts " includes, in relation to the execution of works, arrangements for the execution of those works by persons employed by the local authority.

*Private legislation*

**82 Power of local authority to promote or oppose private legislation**

- (1) Subject to the provisions of this Act, where a local authority are satisfied that it is expedient to promote or oppose any private legislation in Parliament, the local authority may, in accordance with the procedure provided by this section, promote or oppose the same accordingly and may defray the expenses incurred in relation thereto.
- (2) A resolution of a local authority to promote or oppose private legislation under subsection (1) above shall be—

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- (a) passed by a majority of the whole number of the members of the authority at a meeting of the authority held after ten clear days' notice of the meeting and of its purpose has been given by advertisement in one or more newspapers circulating in the area of the authority, such notice being given in addition to the ordinary notice required to be given for the convening of a meeting of the authority ; and
  - (b) in the case of the promotion of private legislation, confirmed by a like majority at a further such meeting convened in accordance with paragraph (a) above and held as soon as may be after the expiration of fourteen days after the draft of the provisional order has been submitted to the Secretary of State in accordance with the provisions of the Act of 1936 and, if the resolution is not confirmed, the local authority shall take all necessary steps to withdraw the same.
- (3) Where under section 2 of the Act of 1936, the Chairman of Committees of the House of Lords and the Chairman of Ways and Means in the House of Commons are of opinion that provisions contained in a draft provisional order ought to be dealt with by private Bill and not by provisional order, the determination of the Chairmen shall forthwith be reported to the local authority concerned, and unless the authority resolve to proceed with the promotion of a private Bill dealing with the matters to which the said provisions relate or any of them, such a private Bill shall not be promoted, but if such a private Bill is to be promoted, the proceedings of the authority with respect to the promotion of a provisional order under this section shall be deemed to apply to the promotion of such a Bill.
- (4) In ascertaining for the purpose of this section the whole number of members of a local authority, no account shall be taken of any vacancy which may at the time exist in the membership of the authority.
- (5) No payment shall be made by a local authority to a member of the authority for acting as counsel or agent in promoting or opposing private legislation under this section.
- (6) Nothing in this section shall affect the right of any local authority connected with the locality to which any draft provisional order referred to Commissioners under the Act of 1936 relates to make a report to the Commissioners respecting the provisions of the draft order.
- (7) In this section—
- " Act of 1936 " means the Private Legislation Procedure (Scotland) Act 1936;
  - " provisional order " means a provisional order under the Act of 1936;
  - " private legislation in Parliament " and " private legislation " include a provisional order and the confirmation Bill relating thereto under the Act of 1936, and also any local or personal Bill.

#### *Miscellaneous*

### **83 Power of local authorities to incur expenditure for certain purposes not otherwise authorised**

- (1) A local authority may, subject to the provisions of this section, incur expenditure which in their opinion is in the interests of their area or any part of it or all or some of its inhabitants, but a local authority shall not, by virtue of this subsection, incur any

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expenditure for a purpose for which they are, either unconditionally or subject to any limitation or to the satisfaction of any condition, authorised or required to make any payment by or by virtue of any other enactment.

- (2) It is hereby declared that the power of a local authority to incur expenditure under subsection (1) above includes power to do so by contributing towards the defraying of expenditure by another local authority in or in connection with the exercise of that other authority's functions.
- (3) A local authority may, subject as aforesaid, incur expenditure on contributions to any of the following funds, that is to say—
  - (a) the funds of any charitable body in furtherance of its work in the United Kingdom ; or
  - (b) the funds of any body which provides any public service in the United Kingdom otherwise than for the purposes of gain; or
  - (c) any fund which is raised in connection with a particular event directly affecting persons resident in the United Kingdom on behalf of whom a public appeal for contributions has been made by a chairman of a regional, islands or district council, a chairman of a community council, a lord-lieutenant or by a body of which any of these persons is a member.
- (4) The expenditure of a local authority under this section in any financial year shall not exceed the product of a rate of 2p in the pound for their area for that year or, if some other amount, whether higher or lower, is fixed by an order made by the Secretary of State, shall not exceed the product of a rate of that amount in the pound for their area for that year.
- (5) A statutory instrument containing an order under subsection (4) above may apply to all local authorities or may make different provision in relation to local authorities of different descriptions.
- (6) Any such instrument shall be subject to annulment in pursuance of a resolution of either House of Parliament.

#### **84 Powers of local authorities with respect to emergencies or disasters**

- (1) Where an emergency or disaster involving destruction of or danger to life or property occurs or is imminent or there is reasonable ground for apprehending such an emergency or disaster, and a local authority are of opinion that it is likely to affect the whole or part of their area or all or some of its inhabitants, the authority may—
  - (a) incur such expenditure as they consider necessary in taking action themselves (either alone or jointly with any other person or body and either in their area or elsewhere in or outside the United Kingdom) which is calculated to avert, alleviate or eradicate in their area or among its inhabitants the effects or potential effects of the event; and
  - (b) make grants or loans to other persons or bodies on conditions determined by the authority in respect of any such action taken by those persons or bodies.
- (2) Where a local authority take any such action as aforesaid which will involve their incurring expenditure or make any such grant or loan, they shall as soon as practicable notify the Secretary of State of the action they have taken or of any grant or loan they have made, and the Secretary of State may direct them to cease taking that action or to take it only to such extent as he may specify in the direction or not to make any further grant or loan or to make one not exceeding such amount as he may specify.

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- (3) The power conferred by subsection (1) above shall be in addition to, and not in derogation of, any power conferred on a local authority by or under any other enactment, including any enactment contained in this Act.
- (4) In this section, " local authority" includes an existing local authority.

#### **85 Acceptance of gifts of property**

A local authority may accept, hold and administer—

- (a) for the purpose of discharging any of their functions, gifts of property, whether heritable or moveable, made for that purpose ; or
- (b) for the benefit of the inhabitants of their area or of some part of it, gifts made for that purpose ;

and may execute any work (including works of maintenance or improvement) incidental to or consequential on the exercise of the powers conferred by this section.

#### **86 Insurance by local authorities against accidents to members**

- (1) A local authority may enter into a contract with any person whereby, in consideration of payments by the authority by way of premium or otherwise, that person undertakes to pay to the authority such sums as may be provided in the contract in the event of any member of the authority meeting with a personal accident, whether fatal or not, while he is engaged on the business of the authority.
- (2) Any sum received by the authority under any such contract shall, after deduction of any expenses incurred in the recovery thereof, be paid by them to, or to the personal representatives of, the member concerned.
- (3) The provisions of the Life Assurance Act 1774 shall not apply to any such contract, but any such contract shall be deemed for the purposes of the Insurance Companies Act 1958 to be a policy of insurance upon the happening of personal accidents.
- (4) In this section, the expression " member of the authority " includes a member of a committee or sub-committee of the authority who is not a member of that authority.

#### **87 Research and the collection of information**

- (1) A council may conduct, or assist in the conducting of, investigations into, and the collection of information relating to, any matters concerning their area or any part thereof and may make, or assist in the making of arrangements whereby any such information and the results of any such investigation are made available to any other local authority in the area, any government department or the public.
- (2) The appropriate Minister with respect to any matter may require a council to provide him with any information with respect to that matter which is in the possession of, or available to, that council or any other local authority in the area of the council in consequence of the exercise of any power conferred by or under any enactment; and where such requirement is made in respect of any information which is in the possession of, or available to, any other local authority in the area, but not the council, the council may require that other authority to furnish them with that information.
- (3) In this section " council" means a regional or islands council.

## **88 Provision of information, etc., relating to matters affecting local government**

- (1) A local authority may make, or assist in the making of, arrangements whereby the public may on application readily obtain, either at premises specially maintained for the purpose or otherwise, information concerning the services available within the area of the authority provided either by the authority or by other authorities or by government departments, or by charities and other voluntary organisations, and other information as to local government matters affecting the area.
- (2) A local authority may—
  - (a) arrange for the publication within their area of information on matters relating to local government; and
  - (b) arrange for the delivery of lectures and addresses and the holding of discussions on such matters; and
  - (c) arrange for the display of pictures, cinematograph films or models or the holding of exhibitions relating to such matters; and
  - (d) prepare, or join in or contribute to the cost of the preparation of, pictures, films, models or exhibitions to be displayed or held as aforesaid.

## **89 Subscriptions to local government associations**

A local authority may pay reasonable subscriptions, whether annually or otherwise, to the funds—

- (a) of any association of local authorities formed (whether inside or outside the United Kingdom) for the purpose of consultation as to the common interests of those authorities and the discussion of matters relating to local government, or
- (b) of any association of officers or members of local authorities which was so formed.

## **90 Power to encourage visitors and provide conference and other facilities**

- (1) A local authority may (either alone or jointly with any other person or body)—
  - (a) encourage persons, by advertisement or otherwise, to visit their area for recreation, for health purposes or to hold conferences, trade fairs and exhibitions in their area; and
  - (b) provide, or encourage any other person or body to provide, facilities for recreation, conferences, trade fairs and exhibitions or improve, or encourage any other person or body to improve, any existing facilities for those purposes.
- (2) Without prejudice to subsection (1) above, a local authority may contribute to any organisation approved by the Secretary of State for the purposes of this subsection and established for the purpose of encouraging persons to visit the United Kingdom or any part thereof.

## **91 Social, cultural and recreative activities**

- (1) A local authority may do, or arrange for the doing of, or contribute towards the expenses of the doing of, anything (whether inside or outside their area) necessary or expedient for the purpose of the provision of adequate facilities for social, cultural and recreative activities, and in particular, but without prejudice to that generality, for any of the following purposes, that is to say—
  - (a) the provision of an entertainment of any nature or of facilities for dancing;

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- (b) the development and improvement of the knowledge, understanding and practice of the arts and crafts;
  - (c) the provision of a theatre, cultural centre, arts centre, concert hall, dance hall, community centre or other premises suitable for social, cultural or recreative activities;
  - (d) the maintenance of a band, orchestra or theatrical company or any other body for the promotion of all or any of the activities aforesaid ;
  - (e) any purpose incidental to the matters aforesaid, including the provision of refreshments or programmes and the advertising of any such activities.
- (2) Without prejudice to the generality of the provisions of subsection (1) above, a local authority—
- (a) may for the purposes therein specified enclose or set apart any part of a park or pleasure ground belonging to the authority or under their control;
  - (b) may permit any premises provided by them for the purposes of subsection (1) above and any part of a park or pleasure ground enclosed or set apart as aforesaid, to be used by any other person, on such terms as to payment or otherwise as the authority think fit, and may authorise that other person to make charges for admission thereto;
  - (c) may themselves make charges for admission to or participation in any entertainment given or social, cultural or recreative activity promoted by them and for any refreshment or programme supplied at or in connection with any such entertainment or activity.
- (3) Regional councils shall have a duty, in consultation with district councils within their region, to ensure that there is an adequate provision of facilities for the inhabitants of their region for social, cultural and recreative activities.
- (4) Subsection (2) above shall not authorise any authority to contravene any covenant or condition subject to which a gift or lease of a public park or pleasure ground has been accepted or made without the consent of the donor, grantor, lessor or other person entitled in law to the benefit of the covenant or condition.
- (5) Nothing in this section shall affect the provisions of any enactment by virtue of which a licence is required for the public performance of a stage play or the public exhibition of cinematograph films, or for boxing or wrestling entertainments or for public music or dancing, or for the sale of exciseable liquor.
- (6) No certificate shall be granted under the Licensing (Scotland) Acts 1959 to 1969 for the sale of exciseable liquor in any premises provided under this section in Scotland, but nothing in this subsection shall render it unlawful to grant under section 60 of the Licensing (Scotland) Act 1959 a special permission for an entertainment on any such premises.

## **92      Transfer of securities on alteration of area, etc.**

- (1) Where any securities are standing in the books of a company in the name of a local authority the following provisions shall have effect—
- (a) if the name of the authority is changed, then at the request of the authority and on production of a statutory declaration by the proper officer of the authority specifying the securities and verifying the change of name and identity of the authority, the company shall enter the securities in the new name of the

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local authority in like manner as if the securities had been transferred to the authority under that name ;

- (b) if by virtue of anything done under any provision of this Act or any enactment similar to any such provision (whenever passed), any other local authority have become entitled to the securities or any dividends or interest thereon, as the case may be, a certificate of the proper officer of the council of that other authority or the scheme, order or award under which that other authority have become so entitled, shall be a sufficient authority to the company to transfer the securities into the name of the local authority specified in that behalf in the certificate, or in the scheme, order or award, as the case may be, and to pay the dividends or interest to that authority;
- (c) if in any other case any other local authority have become entitled to the securities or any dividends or interest thereon, as the case may be, 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 securities or to receive the dividends or interest, as the case may be.

(2) In this section, the expression—

" company " includes the Bank of England and any company or person keeping books in which any securities are registered or inscribed ;

" securities " has the same meaning as in the Prevention of Fraud (Investments) Act 1958.