



Local Government (Scotland) Act 1973

1973 CHAPTER 65

PART V

INTERNAL ORGANISATION

Discharge of functions

56 Arrangements for discharge of functions by local authorities.

- (1) Subject to any express provision contained in this Act or any Act passed after this Act, a local authority may arrange for the discharge of any of their functions by a committee of the authority, a sub-committee, an officer of the authority or by any other local authority in Scotland.
- [^{F1}(2) Where by virtue of this section any function of a local authority may be discharged by any committee or sub-committee of theirs, then, unless the local authority otherwise direct—
 - (a) the committee may arrange for the discharge of any of those functions by a sub-committee or an officer of the authority; and
 - (b) the sub-committee, whether assigned the discharge of functions by the authority or by a committee, may arrange for the discharge of any such functions by an officer of the authority.]
- (3) Where by virtue of this section any functions of a local authority may be discharged by another local authority, subsections (1) and (2) above shall apply in relation to those functions as they apply in relation to the functions of that other authority, except that—
 - (a) the foregoing provision shall have effect subject to the terms of the arrangement relating to the functions; and
 - (b) that other authority shall not, by virtue of this subsection, arrange for the discharge of those functions by some other local authority.
- (4) Any arrangement made by a local authority or committee under this section for the discharge of any functions by a committee, sub-committee, officer or local authority

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shall not prevent the authority or committee by whom the arrangement is made from exercising those functions.

(5) Two or more local authorities may discharge any of their functions jointly and, where arrangements are in force for them to do so,—

- (a) they may also arrange for the discharge of those functions by a joint committee of theirs or by an officer of one of them, and subsection (2) above shall apply in relation to those functions as it applies in relation to the functions of the individual authorities; and
- (b) any enactment relating to those functions or the authorities by whom or the areas in respect of which they are to be discharged shall have effect subject to all necessary modifications in its application in relation to those functions and the authorities by whom and the areas in respect of which (whether in pursuance of the arrangements or otherwise) they are to be discharged.

(6) A local authority's functions with respect to [^{F2}determining a rate or]

- [^{F2}(a) determining a rate;
- (b) determining the amount of—
 - (i) the personal community charge;
 - (ii) the personal community water charge;
- (c) determining the standard community charge multiplier (within the meaning of section 10 of the Abolition of Domestic Rates Etc. (Scotland) Act 1987); or
- (d)] borrowing money shall be discharged only by the authority.

(7) A local authority shall not make arrangements under this section for the discharge of any of their functions under [^{F3}the ^{M1}Animal Health Act 1981] by any other local authority.

(8) Any enactment, except one mentioned in subsection (9)

below, which contains any provision—

- (a) which empowers or requires local authorities or any class of local authorities to establish committees (including joint committees) for any purpose or enables a Minister to make an instrument establishing committees of local authorities for any purpose, or empowering or requiring a local authority or any class of local authorities to establish committees for any purpose; or
- (b) which empowers or requires local authorities or any class of local authorities to arrange or to join with other authorities in arranging for the exercise by committees so established or by officers of theirs of any of their functions or provides that any specified functions of theirs shall be discharged by such committees or officers, or enables any Minister to make an instrument conferring such a power, imposing such a requirement or containing such a provision;

shall, to the extent that it makes any such provision, cease to have effect.

(9) The following enactments are exempted from subsection (8)

above—

- (a) section 36 of the ^{M2}Fire Service Act 1947 so far as relating to administration schemes;
- (b) sections 19, 20, 21 and 21A of the ^{M3}Police (Scotland) Act 1967 (amalgamation schemes);
- (c) section 2 of the ^{M4}Social Work (Scotland) Act 1968 (social work committees);

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- (d) paragraph 3 of Schedule 3 to the said Act of 1968 (children’s panel advisory committees);
 - (e) section 7 of the ^{M5}Superannuation Act 1972 (superannuation of persons employed in local government service, etc.);
 - (f) section 9 of the said Act of 1972 (superannuation of teachers).
- (10) This section shall not authorise a local authority to arrange for the discharge by any committee, sub-committee or local authority of any functions which, by any enactment mention in subsection (9) above, are required or authorised to be discharged by a specified committee, but the foregoing provision shall not prevent a local authority who are required by or under any such enactment to establish, or delegate functions to, a committee established by or under any such enactment from arranging under this section for the discharge of their functions by an officer of the local authority or committee, as the case may be.
- (11) ^{F4}
- (14) References in this section and section 57 below to the discharge of any of the functions of a local authority include references to the doing of anything which is calculated to facilitate, or is conducive or incidental to, the discharge of any of those functions.
- (15) Nothing in this section affects the operation of the ^{M6}Local Authorities (Goods and Services) Act 1970.

Textual Amendments

- F1** S. 56(2) substituted by [Local Government and Planning \(Scotland\) Act 1982 \(c. 43\), s. 32](#)
- F2** Words beginning “(a) determining a rate;” substituted (*prosp.*) for words beginning “determining a rate or” by [Abolition of Domestic Rates Etc. \(Scotland\) Act 1987 \(c. 47, SIF 81:2, 103:2\), s. 28](#) (which was repealed (1.10.1992) by [Local Government Finance Act 1992 \(c. 14\), s. 117\(2\), Sch.14; S.I. 1992/2183, art. 2](#), Sch. (with art. 3)).
- F3** Words substituted by virtue of [Interpretation Act 1978 \(c. 30\), s. 17\(2\)\(a\)](#)
- F4** S. 56(11)–(13) repealed by [Statute Law \(Repeals\) Act 1981 \(c. 19\), Sch. 1 Pt. VII](#)

Modifications etc. (not altering text)

- C1** S. 56 excluded by [Lotteries and Amusements Act 1976 \(c. 32\), s. 6\(3\)](#).
- C2** S. 56 excluded by [Local Government and Housing Act 1989 \(c. 42, SIF 81:1, 2\), ss. 4\(5\), 5\(5\)](#)
- C3** S. 56 restricted (16.1.1990 to the extent mentioned in S.I. 1989/2445, [art. 4](#), and 1.8.1990 to the extent mentioned in S.I. 1990/1552, [art. 3](#), otherwise (*prosp.*)) by [Local Government and Housing Act 1989 \(c. 42, SIF 81:1, 2\), ss. 9\(8\)\(b\)\(10\)](#), 195(2)
- C4** S. 56(1) extended by [Local Government \(Scotland\) Act 1975 \(c. 30\), s. 23\(1\)](#); excluded by [Civic Government \(Scotland\) Act 1982 \(c. 45\), s. 117\(6\)](#)

Marginal Citations

- M1** 1981 c. 22.
- M2** 1947 c. 41.
- M3** 1967 c. 77.
- M4** 1968 c. 49.
- M5** 1972 c. 11.
- M6** 1970 c. 39.

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57 Appointment of committees.

- (1) For the purpose of discharging any functions of a local authority in pursuance of arrangements made under section 56 of this Act—
 - (a) the authority may appoint a committee of the authority; or
 - (b) two or more local authorities may appoint a joint committee of those authorities; or
 - (c) any such committee may appoint one or more sub-committees.
- (2) Subject to the provisions of this section, the number of members of a committee appointed under subsection (1) above, their term of office, and the area (if restricted) within which the committee are to exercise their authority, shall be fixed by the appointing authority or authorities or, in the case of a sub-committee, by the appointing committee.
- (3) A committee appointed under subsection (1) above, other than a committee for regulating and controlling the finance of the local authority or of their area may, subject to section 59 below, include persons who are not members of the appointing authority or authorities or, in the case of a sub-committee, the authority or authorities of whom they are a sub-committee, [^{F5}but at least two-thirds of the members appointed to any such committee (other than a sub-committee) shall be members of that authority or those authorities, as the case may be.]
- (4) A local authority may appoint a committee, and two or more local authorities may join in appointing a committee, to advise the appointing authority or authorities on any matter relating to the discharge of their functions, and any such committee—
 - (a) may consist of such persons (whether members of the appointing authority or authorities or not) appointed for such term as may be determined by the appointing authority or authorities; and
 - (b) may appoint one or more sub-committees to advise the committee with respect to any such matter.
- (5) Every member of a committee appointed under this section who at the time of his appointment was a member of the appointing authority or one of the appointing authorities shall, upon ceasing to be a member of that authority, also cease to be a member of the committee; but for the purposes of this section a member of a local authority shall not be deemed to have ceased to be a member of the authority by reason of retirement if he has been re-elected a member thereof not later than the day of his retirement.

Textual Amendments

- F5** Words repealed (16.1.1990 to the extent mentioned in S.I. 1989/2445, art. 4 and otherwise prosp. (with saving)) by [Local Government and Housing Act 1989](#) (c. 42, SIF 81:1), ss. 14(6)(8)(a), 194(4), 195(2), [Sch. 12 Pt. II](#)

Modifications etc. (not altering text)

- C5** [S. 57](#) excluded by [Water \(Scotland\) Act 1980](#) (c. 45), s. 3(4)
- C6** [S. 57](#) applied (*temp.* from 6.4.1995 until 1.4.1996) by S.I. 1995/789, art. 2, [Sch. para. 3](#)

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58 Expenses of joint committees.

The expenses incurred by a joint committee appointed under this Part of this Act or any other enactment shall be defrayed by the appointing local authorities in such proportions as they may agree or, in the case of disagreement, as may be determined by the Secretary of State.

Modifications etc. (not altering text)

C7 S. 58 applied (*temp.* from 6.4.1995 until 1.4.1996) by S.I. 1995/789, art. 2, Sch. para. 3

59 Disqualification for membership of committees and joint committees.

- (1) Subject to section 126 of this Act, a person who is disqualified under Part III of this Act for being elected or being a member of a local authority shall be disqualified for being a member of a committee (including a sub-committee) of that authority, or being a representative of that authority on a joint committee of the authority and another local authority, whether the committee or joint committee are appointed under this Act or under any other enactment.
- (2) Section 32 of this Act shall, so far as applicable, apply with respect to membership of or a claim to be entitled to act as a member of a committee or sub-committee of a local authority or of a joint committee appointed by local authorities as it applies to membership of or claims to be entitled to act as a member of a local authority.

Modifications etc. (not altering text)

C8 S. 59(1) applied (with modifications) (*temp.* from 6.4.1995 until 1.4.1996) by S.I. 1995/789, art. 2, Sch. para. 3

60 Disability for voting on account of interests in contracts, etc.

Sections 38 to 42 of this Act shall apply as respects members of a committee or sub-committee of a local authority or of any joint committee appointed by two or more local authorities, whether the committee, sub-committee or joint committee are appointed under this Act or under any other enactment, as they apply in respect of members of local authorities, subject to the following modifications—

- (a) as respects members of a committee or sub-committee, references to meetings of the committee or sub-committee shall be substituted for references to meetings of the local authority; and
- (b) as respects members of a joint committee, references to meetings of the joint committee shall be substituted for references to meetings of the local authority.

Modifications etc. (not altering text)

C9 S. 60 applied (9. 5. 1991) by Tay Road Bridge Order Confirmation Act 1991 (c. iv), s. 1, Sch., s. 3, Sch. 1 Pt. I para.5
S. 60 applied (*temp.* from 6.4.1995 until 1.4.1996) by S.I. 1995/789, art. 2, Sch. para. 3

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61 Membership of bodies to cease on ceasing to be member of authority.

Where a local authority by virtue of any enactment of instrument 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 instrument 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.

Modifications etc. (not altering text)

C10 S. 61 applied (*temp.* from 6.4.1995 until 1.4.1996) by S.I. 1995/789, art. 2, **Sch. para. 3**

62 Standing orders, etc.

A local authority appointing a committee, and local authorities appointing a joint committee, either under this Act or under any other enactment, may make, vary or revoke standing orders respecting the quorum, proceedings and place of meeting of the committee, joint committee or any sub-committee of any such committee, but, subject to any such standing orders, the quorum, proceedings and place of meeting shall be such as the committee, joint committee or sub-committee may determine.

Modifications etc. (not altering text)

C11 S. 62 applied (*temp.* from 6.4.1995 until 1.4.1996) by S.I. 1995/789, art. 2, **Sch. para. 3**

VALID FROM 01/04/1996

^{F6}62A Incorporation of joint committees.

(1) Where—

- (a) arrangements are made (whether under this Act or any other enactment) for two or more local authorities (in this Part of this Act referred to as “the relevant authorities”) to discharge any of their functions, or any functions in any area, jointly;
- (b) the relevant authorities have—
 - (i) appointed, or propose to appoint, a joint committee to discharge those functions; and
 - (ii) advertised their proposals in accordance with subsection (2) below; and
- (c) application is made, in writing, to the Secretary of State by the relevant authorities for the incorporation of that joint committee (or proposed joint committee) as a joint board to carry out those functions,

the Secretary of State may by order establish a joint board in accordance with this section to discharge those functions.

(2) Before applying to the Secretary of State under subsection (1)(c) above, the relevant authorities shall place in at least one daily newspaper circulating in their areas an advertisement—

- (a) giving brief details of what they propose to do;

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- (b) giving an address to which representations about the proposal may be sent; and
 - (c) fixing a date, being not less than 8 weeks after the date on which the advertisement appears, within which representations may be made,
- and they shall include with their application evidence that an advertisement has been placed.
- (3) Where any representations are timeously made in response to an advertisement placed in accordance with subsection (2) above, the relevant authorities shall consider them and shall include with their application a statement that they have done so.
- (4) An order under subsection (1) above shall delegate to the joint board such of the functions of the relevant authorities as may be specified in the order and may include provision with respect to—
- (a) the constitution and proceedings of the joint board;
 - (b) matters relating to the membership of the joint board;
 - (c) the transfer to the joint board of any property, rights and liabilities of the relevant authorities;
 - (d) the transfer to the joint board of any staff of the relevant authorities;
 - (e) the supply of services or facilities by the relevant authorities to the joint board,
- and may, without prejudice to the generality of paragraphs (a) to (e) above, apply (with or without modifications) any of the provisions of Part V of this Act to a joint board as those provisions apply to a joint committee.
- (5) A joint board established under this section shall be a body corporate and shall have a common seal.
- (6) An order under subsection (1) above shall be in terms agreed by the relevant authorities.
- (7) An instrument containing an order under this section shall be subject to annulment in pursuance of a resolution of either House of Parliament.]

Textual Amendments

F6 Ss. 62A-62C inserted (1.4.1996) by 1994 c. 39, s. 20; S.I. 1995/702, art. 6

VALID FROM 01/04/1996

^{F7}62B Power of Secretary of State to establish joint boards.

- (1) Where the Secretary of State considers—
- (a) that any functions, or any functions in any area, of the relevant authorities should be discharged jointly by those authorities; and
 - (b) that arrangements, or satisfactory arrangements, for the joint discharge of those functions—
 - (i) have not been made by the relevant authorities; or

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(ii) have ceased to be in operation,

he may, after consulting the relevant authorities, by order establish a joint board in accordance with this section.

- (2) Subsections (4) and (5) of section 62A of this Act shall apply to a joint board established under this section as they apply to a joint board established under that section with the substitution of a reference to subsection (1) of this section for the reference to subsection (1) of that section.
- (3) No order shall be made under subsection (1) above unless a draft of the instrument containing the order has been laid before, and approved by resolution of, each House of Parliament.

Textual Amendments

F7 Ss. 62A-62C inserted (1.4.1996) by 1994 c. 39, s. 20; S.I. 1995/702, art. 6

VALID FROM 01/04/1996

^{F8}62C Further provisions relating to joint boards.

- (1) Where a joint board has been established by order under section 62A or 62B of this Act, the Secretary of State may by order provide—
 - (a) for excluding any functions, or any functions in any area, from those specified in the order establishing that joint board; and
 - (b) for the dissolution of the joint board.
- (2) An order shall not be made under subsection (1) above unless the Secretary of State has consulted the relevant authorities.
- (3) An instrument containing an order under this section shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (4) The power to make an order under this section or section 62A or 62B of this Act shall include power to make such transitional, incidental, supplemental or consequential provision as the Secretary of State thinks necessary or expedient.
- (5) An order under this section or section 62A or 62B of this Act may, for the purpose of making such provision as is mentioned in subsection (4) above—
 - (a) apply with or without modifications;
 - (b) extend, exclude or amend; or
 - (c) repeal or revoke with or without savings, any enactment or any instrument made under any enactment.

Textual Amendments

F8 Ss. 62A-62C inserted (1.4.1996) by 1994 c. 39, s. 20; S.I. 1995/702, art. 6

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63 Application of foregoing provisions of Part V to police authorities and joint police committees.

- (1) Subsections (2) to (4) below shall have effect for the purposes of the application of the foregoing provisions of this Part of this Act to a local authority in relation to their functions as a police authority.
- (2) A police authority may not arrange under section 56(1) of this Act for the discharge of any of their functions by another police authority or a district council.
- (3) The following provisions of this Part of this Act shall not apply to a police authority—
 - (a) in section 56, subsections (3), (5) and (10),
 - (b) section 57(1)(b).
- (4) Section 62 of this Act shall not apply in a case where a joint police committee are constituted by or under an amalgamation scheme made under Part I of the ^{M7}Police (Scotland) Act 1967.
- (5) Subsections (1) and (2) of section 56 of this Act shall apply to a joint police committee as they apply to a local authority except that—
 - (a) they may not arrange for the discharge of any of their functions by another joint police committee or a police authority or district council, or
 - (b) if the function relates to part only of the combined area in respect of which the committee are exercising functions, they may not arrange for the discharge of that function by any other person.

Marginal Citations

M7 1967 c. 77.

VALID FROM 01/04/1996

[^{F9}63A Sections 62A to 62C not to apply to fire authority.

Sections 62A to 62C of this Act shall not apply to a local authority in relation to their functions as a fire authority.]

Textual Amendments

F9 S. 63A inserted (1.4.1996) by 1994 c. 39, s. 180(1). Sch. 13 para. 92(16); S.I. 1996/323, art. 4(1)(c)

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