



Local Government (Scotland) Act 1973

1973 CHAPTER 65

PART VIII

FUNCTIONS

Education

[^{F1}123 Education authorities.

The education authority for the purposes of the ^{M1}Education (Scotland) Act 1980 and any other enactment conferring functions on the education authority shall be a local authority.]

Textual Amendments

F1 S. 123 substituted (1.4.1996) by 1994 c. 39, s. 180(1), Sch. 13 para. 92(28); S.I. 1996/323, art. 4(1)(c)

Marginal Citations

M1 1980 c. 44

[^{F2}124 Membership of committees appointed by education authorities.

- (1) Where an education authority appoint a committee whose purposes include—
 - (a) advising the authority on any matter relating to the discharge of their functions as education authority; or
 - (b) discharging any of those functions of the authority on their behalf,the members of such committee shall, notwithstanding the provisions of section 57(3) and (4)(a) of this Act, be appointed in accordance with this section.
- (2) Subject to the provisions of section 59 of this Act, an education authority who appoint a committee such as is mentioned in subsection (1) above shall secure that—

Status: Point in time view as at 01/04/2002.

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- (a) at least half of the persons appointed by them to be members of such committee are members of the authority; and
 - (b) the persons appointed by them to be members of such committee shall include the three persons mentioned in subsection (4) below.
- (3) Subject to the provisions of subsection (2) above, an education authority may appoint persons who are not members of the authority to be members of a committee such as is mentioned in subsection (1) above.
- (4) The three persons mentioned in subsection (2)(b) above (who shall not be members of the education authority appointing such committee) are—
- (a) one representative of the Church of Scotland, nominated in such manner as may be determined by the General Assembly of the Church;
 - (b) in the case of the education authority for each area other than Orkney Islands, Shetland Islands and Western Isles, one representative of the Roman Catholic Church, nominated in such manner as may be determined by the Scottish Hierarchy of the Church; and
 - (c) one person or, in the case of the education authorities for Orkney Islands, Shetland Islands and Western Isles, two persons, in the selection of whom the authority shall have regard (taking account of the representation of churches under paragraphs (a) and (b) above) to the comparative strength within their area of all the churches and denominational bodies having duly constituted charges or other regularly appointed places of worship there.
- (5) Where two or more authorities appoint a joint committee whose purposes include discharging any of the functions of those authorities as education authorities on their behalf, section 57(3) of this Act shall apply to such a joint committee as if for the words “two-thirds” there were substituted the words “one-half”.]

Textual Amendments
F2 S. 124 substituted (1.4.1996) by 1994 c. 39, s. 31 (with s. 7(2)); S.I. 1996/323, art. 4(1)(a), Sch. 1

^{F3}125

Textual Amendments
F3 S. 125 repealed by Self-Governing Schools Etc. (Scotland) Act 1989 (c. 39, SIF 41:2), s. 82(2), Sch. 11 (subject to savings in s. 54(7) of that Act whereby s. 125 remains in force in relation to any college council appointed under the said section 125 for so long as that council remains in existence)

^{F4}126 **Disqualification for membership of committees appointed by education authorities.**

Notwithstanding the provisions of section 59 of this Act, a person shall not, by reason of his being a teacher employed in an educational establishment under the management of an education authority, be disqualified for being a member of—

- (a) a committee such as is mentioned in subsection (1) of section 124 of this Act;
- (b) a joint committee of two or more authorities whose purposes include either of those mentioned in paragraphs (a) and (b) of that subsection; or

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(c) any sub-committee of such a committee or joint committee.]

Textual Amendments

F4 S. 126 substituted (1.4.1996) by 1994 c. 39, s. 180(1), **Sch. 13 para. 92(29)**; S.I. 1996/323, **art. 4(1)(c)**

^{F5}127

Textual Amendments

F5 S. 127 repealed (1.4.1996) by 1994 c. 39, s. 180(2), **Sch. 14**; S.I. 1996/323, **art. 4(1)(d)**, **Sch. 2**

128 Educational endowments.

(1) Where, immediately before 16th May 1975, any educational endowment is to any extent vested in the existing local authority for an area specified in the first column of Table A below, that endowment shall on that day to that extent be transferred to and vest for the same purposes in the appropriate new local authority for the area specified in relation thereto in the second column of that Table.

TABLE A

Existing area	New area
County	Region or islands area
County of a city	
Large burgh	District or islands area
Small burgh	
District	

(2) Where, immediately before 16th May 1975, any educational endowment is to any extent to be vested, by virtue of his office, in the holder of any office connected with an existing local authority specified in the first column of Table B below, that endowment shall on that day to that extent be transferred to and vest for the same purposes in the holder of the office, specified in relation thereto in the second column of that Table, of the appropriate new local authority as determined by reference to subsection (1) above.

TABLE B

Existing office-holder	New office-holder
Lord Provost	[^{F6} Convener of council]
Provost	
Convener of county	
Chairman of district council	
MagistrateCouncillorChairman of or member of a committee	Councillor, or any other person nominated by the council

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Any specified officer

The corresponding officer or (if there is no such officer) the proper officer

- (3) Where, immediately before 16th May 1975, any power with respect to an educational endowment is vested in an existing local authority, or (by virtue of his office) in the holder of an office connected with such an authority, that power shall on that day be transferred to and vest in the appropriate new local authority or (as the case may be) in the new office-holder of that authority, as ascertained by reference to subsections (1) and (2) above.
- (4) Subject to the provisions of the governing instrument of an educational endowment, where, as the result of the election of a local authority occurring after 16th May 1975, it is necessary for a person to be nominated by the authority or by a committee thereof to be vested (to any extent) with the endowment, in terms of subsection (2) above, or to be vested with any power, in terms of subsection (3) above, that person shall be so nominated at the first meeting of the authority or committee held after it has been elected or appointed; and in such a case the person who (to the said extent) was last vested with the endowment or, as the case may be, who was last vested with the power, before the meeting shall continue therein until the date of the meeting.
- (5) In this section, unless the context otherwise requires, expressions used in Part VI of the ^{M2}Education (Scotland) Act 1962 have the same meaning as in that Part, and “the appropriate new local authority” means, in relation to an existing local authority, the new authority whose area comprises the whole or the greater part of the area of the existing authority: and if, in any case, there is a dispute as to such appropriate authority, or as to the person or persons corresponding to an existing office-holder or office-holders for the purposes of this section, it shall be taken to be such new local authority or, as the case may be, person or persons as the Secretary of State may direct.
- (6) Nothing in this section shall affect any other power to reorganise any educational endowment or otherwise to alter the provisions of any trust.

Textual Amendments

F6 S. 128(2): words in Table B substituted (1.4.1996) by 1994 c. 39, s. 180(1), **Sch. 13 para. 92(30)**; S.I. 1996/323, **art. 4(1)(c)**

Modifications etc. (not altering text)

C1 S. 128 excluded by Local Government (Scotland) Act 1975 (c. 30), s. 16, **Sch. 3 para. 13(1)**

Marginal Citations

M2 1962 c. 47.

^{F7}129

Textual Amendments

F7 S. 129 repealed by Education (Scotland) Act 1980 (c. 44), **Sch. 5**

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Housing

130 Housing.

- (1) Subject to the provisions of this and the next following section, the local authority for the purposes of the Housing (Scotland) [^{F8}Act 1987] shall be [^{F9}a council constituted under section 2 of the Local Government etc. (Scotland) Act 1994].
- [^{F10}(2) Before any local authority exercise outwith their area any power under Part I of the ^{M3}Housing (Scotland) Act 1987 (provision of housing accommodation) the authority shall give notice of their intention to do so to the local authority in whose area they propose to exercise the power, but failure to give any such notice shall not invalidate the exercise of the power.]
- ^{X1}(3) The enactments relating to housing specified in Schedule 12 to this Act shall be amended in accordance with the provisions of that Schedule.

Editorial Information

- X1** The text of ss. 130(3), 132(2), 134(2), 135(10), 138(2), 146(2)-(9), 147(2)(6)-(8), 155(2)(3)(5)-(7), 156(2)(3), 166(2), 170(2), 175, 184, 213(3), 237(1), Schs. 16, 19, 21 paras. 2-12 and Sch. 26 is in the form in which it was originally enacted: it was not reproduced in Statutes In Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991

Textual Amendments

- F8** Words substituted by [Housing \(Scotland\) Act 1987 \(c. 26, SIF 61\)](#), ss. 335, 339(2), **Sch. 23 para. 20(1)(a)**
- F9** Words in s. 130(1) substituted (1.4.1996) by 1994 c. 39, s. 180(1), **Sch. 13 para. 92(31)(a)**; S.I. 1996/323, **art. 4(1)(c)**
- F10** S. 130(2) substituted (1.4.1996) by 1994 c. 39, s. 180(1), **Sch. 13 para. 92(31)(b)**; S.I. 1996/323, **art. 4(1)(c)**

Marginal Citations

- M3** 1987 c. 26.

^{F11}131

Textual Amendments

- F11** S. 131 repealed (1.4.1996) by 1994 c. 39, s. 180(2), **Sch. 14**; S.I. 1996/323, art. 4(1)(d), **Sch. 2**

^{F12}132

Textual Amendments

- F12** S. 132 repealed (1.4.1996) by 1994 c. 39, s. 180(2), **Sch. 14**; S.I. 1996/323, art. 4(1)(d), **Sch. 2**

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The environment

133 Roads.

F13(1)

(2) The powers and duties vested in the council of each county in relation to roads by virtue of section 11 of the M4 Local Government (Scotland) Act 1889 shall be transferred to and vested in the [F14 local roads authority].

Textual Amendments

F13 S. 133(1) repealed (1.4.1996) by 1994 c. 39, s. 180(1)(2), Sch. 13 para. 92(32), Sch. 14; S.I. 1996/323, art. 4(1)(c)(d), Sch. 2

F14 Words substituted by Roads (Scotland) Act 1984 (c. 54, SIF 108), s. 156(1), Sch. 9 para. 73

Marginal Citations

M4 1889 c. 50.

134 Building.

F15(1)

X2(2) The M5 Building (Scotland) Act 1959 shall have effect subject to the amendments specified in Part I of Schedule 15 to this Act, and Part II shall have effect for making amendments to other enactments relating to building.

Editorial Information

X2 The text of ss. 130(3), 132(2), 134(2), 135(10), 138(2), 146(2)-(9), 147(2)(6)-(8), 155(2)(3)(5)-(7), 156(2)(3), 166(2), 170(2), 175, 184, 213(3), 237(1), Schs. 16, 19, 21 paras. 2-12 and Sch. 26 is in the form in which it was originally enacted: it was not reproduced in Statutes In Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991

Textual Amendments

F15 S. 134(1) repealed (1.4.1996) by 1994 c. 39, s. 180(1)(2), Sch. 13 para. 92(33), Sch. 14; S.I. 1996/323, art. 4(1)(c)(d), Sch. 2

Marginal Citations

M5 1959 c. 24.

F16 135

Textual Amendments

F16 S. 135 repealed (1.4.1996) by 1995 c. 25, s. 120(3), Sch. 24 (with ss. 7(6), 115, 117, Sch. 23 para. 6); S.I. 1996/186, art. 3(xiii)

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^{F17}**135A**.....

Textual Amendments

F17 S. 135A repealed (1.4.1996) by 1995 c. 25, s. 120(3), **Sch. 24** (with ss. 7(6), 115, 117); S.I. 1996/186, art. 3(xiii)

[^{F18}**136** **Deposit of poisonous waste.**

- (1) The local authority for the purposes of the ^{M6}Deposit of Poisonous Waste Act 1972 shall be an islands council or a district council; and accordingly in section 5(1)(b) of that Act for the words “county councils and town” there shall be substituted the words “islands councils and district”.
- (2) In section 3(5), 4(3) and 5(3) of that Act for any reference to a river purification board there shall be substituted a reference to a river purification authority.
- (3) In section 7 of that Act after the definition of “refuse tip” there shall be inserted the following definition ““river purification authority” has the same meaning as in section 17 of the Rivers (Prevention of Pollution) (Scotland) Act 1951, but shall not include an islands council.”]

Textual Amendments

F18 S. 136 repealed (prosp.) by Control of Pollution Act 1974 (c. 40), s. 109(2), **Sch. 4**

Marginal Citations

M6 1972 c. 21.

137 **Flood prevention and flood warning systems.**

^{F19}(1).....

^{F20}(2).....

Textual Amendments

F19 S. 137(1) repealed (1.4.1996) by 1994 c. 39, s. 180(1)(2), Sch. 13 para. 92(36), **Sch. 14**; S.I. 1996/323, art. 4(1)(c)(d), **Sch. 2**

F20 S. 137(2) repealed by Local Government and Planning (Scotland) Act 1982 (c. 43), **Sch. 4 Pt. I**

138 **Coast protection.**

^{F21}(1).....

^{X3}(2) In the said Act of 1949 the following amendments shall be made—

- (a) for section 1(1) (coast protection authorities), there shall be substituted the following subsection—

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- “(1) The council of a region any part of which adjoins the sea or of an islands area shall be the coast protection authority for that region or area, as the case may be.”;
- (b) in section 20(5) (contributions towards expenses of coast protection) for the word “burgh” there shall be substituted the word “ district ”;
- (c) in section 22 (power to use for incidental purposes land acquired for coast protection)—
 - (i) in subsection (2), for the words “burgh or county” there shall be substituted the words “ region or islands area ”.
 - (ii) in subsection (3), for the reference to the ^{M7}Local Government (Scotland) Act 1947 there shall be substituted a reference to the Local Government (Scotland) Act 1973;
- (d) in section 30 (transfer and compensation of officers, and superannuation rights), at the end there shall be added the following subsection—
 - “(4) This section shall not apply to Scotland.”;
- (e) in section 45(1)(b) (service of notices and other documents), for the words “or burgh” there shall be substituted the words “ or in Scotland the council of a region, islands area or district ”;
- (f) in section 46(4) (local inquiries), for the words from “subsection (2)” to “1947” there shall be substituted the words “ subsection (2) and subsections (4) to (8) of section 210 of the Local Government (Scotland) Act 1973 ”;
- (g) in Schedule 1 (procedure for making orders), for paragraph 8(b) there shall be substituted the following sub-paragraph—
 - “(b) for references to the London Gazette and to a county or county district there shall be substituted respectively references to the Edinburgh Gazette and to a region, islands area or district”.

Editorial Information

X3 The text of ss. 130(3), 132(2), 134(2), 135(10), 138(2), 146(2)-(9), 147(2)(6)-(8), 155(2)(3)(5)-(7), 156(2)(3), 166(2), 170(2), 175, 184, 213(3), 237(1), Schs. 16, 19, 21 paras. 2-12 and Sch. 26 is in the form in which it was originally enacted: it was not reproduced in Statutes In Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991

Textual Amendments

F21 S. 138(1) repealed (1.4.1996) by 1994 c. 39, s. 180(1)(2), Sch. 13 para. 92(37), **Sch. 14**; S.I. 1996/323, art. 4(1)(c)(d), **Sch. 2**

Marginal Citations

M7 1947 c. 43.

F22 139

Textual Amendments

F22 S. 139 repealed by Local Government and Planning (Scotland) Act 1982 (c. 43), **Sch. 4 Pt. I**

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F23 140

Textual Amendments

F23 S. 140 repealed (1.4.1996) by 1994 c. 39, s. 180(1)(2), Sch. 13 para. 92(38), **Sch. 14**; S.I. 1996/323, art. 4(1)(c)(d), **Sch. 2**

141 Public conveniences.

The local authority for the purposes of section 5 of the ^{M8}Chronically Sick and Disabled Persons Act 1970 (public conveniences) shall be a local authority within the meaning of this Act, and accordingly in subsection (3) of that section, for the word “1947” there shall be substituted the word “1973”.

Marginal Citations

M8 1970 c. 44.

F24 142

Textual Amendments

F24 S. 142 repealed (1.4.1996) by 1994 c. 39, s. 180(1)(2), Sch. 13 para. 92(39), **Sch. 14**; S.I. 1996/323, art. 4(1)(c)(d), **Sch. 2**

F25 143

Textual Amendments

F25 S. 143 repealed (1.4.1996) by 1994 c. 39, s. 180(1)(2), Sch. 13 para. 92(40), **Sch. 14**; S.I. 1996/323, art. 4(1)(c)(d), **Sch. 2**

144 ^{X4†}**Diseases of animals, and plant health.**

F26(1)

(3) A competent authority under the ^{M9}Plant Health Act 1967 shall no longer have certain powers of direction, and accordingly, in section 5(2) of that Act (records of proceedings), the words from “in such manner” to “direct” shall be omitted, and, in section 6(3) of that Act (publication of orders), the words from “in such”(where first occurring) to “direction” shall cease to have effect.

Editorial Information

X4 Unreliable marginal note.

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Textual Amendments

F26 S. 144(1)(2) repealed by [Animal Health Act 1981 \(c. 22\)](#), [Sch. 6](#)

Marginal Citations

M9 1967 c. 8.

145 Ordnance Survey.

- (1) The ^{M10}Ordnance Survey Act 1841 (in this section referred to as “the 1841 Act”) shall have effect subject to the modifications set out in this section.
- (2) An application under section 1 as read with section 17 of the 1841 Act shall be made to the proper officer of the [^{F27}local authority], and where such an application is made, the function of appointing a person to assist in examining, ascertaining and marking out reputed boundaries shall be exercisable by the [^{F28}authority] to whose proper officer the application was made.
- ^{F29}(3)
- (4) (a) References, in whatever terms in the 1841 Act, to the sheriff by whom a person is appointed under section 1 as read with section 17 of that Act shall be construed as references to the [^{F30}local authority].
- (b) References in the 1841 Act to the sheriff clerk or sheriff clerk depute shall be construed as references to the proper officer of the [^{F30}local authority].
- (5) References in the 1841 Act to a county shall be construed as references to [^{F31}the area of a local authority], including the electoral areas thereof and other places therein.

Textual Amendments

F27 Words in s. 145(2) substituted (1.4.1996) by [1994 c. 39, s. 180\(1\)](#), [Sch. 13 para. 92\(41\)\(a\)\(i\)](#); S.I. 1996/323, [art. 4\(1\)\(c\)](#)

F28 Word in s. 145(2) substituted (1.4.1996) by [1994 c. 39, s. 180\(1\)](#), [Sch. 13 para. 92\(41\)\(a\)\(ii\)](#); S.I. 1996/323, [art. 4\(1\)\(c\)](#)

F29 S. 145(3) repealed (5.11.1993) by [1993 c. 50, s. 1\(1\)](#), [Sch. 1 Pt. XIII](#) Group 1

F30 Words in s. 145(4)(a)(b) substituted (1.4.1996) by [1994 c. 39, s. 180\(1\)](#), [Sch. 13 para. 92\(41\)\(b\)](#); S.I. 1996/323, [art. 4\(1\)\(c\)](#)

F31 Words in s. 145(5) substituted (1.4.1996) by [1994 c. 39, s. 180\(1\)](#), [Sch. 13 para. 92\(41\)\(c\)](#); S.I. 1996/323, [art. 4\(1\)\(c\)](#)

Marginal Citations

M10 1841 c. 30.

Miscellaneous functions

146 Police.

- (1) The ^{M11}Police (Scotland) Act 1967 shall be amended in accordance with subsections (2) to (9) below.

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^{X5}(2) For section 1(1) of that Act (police areas) there shall be substituted the following subsection—

“(1) Subject to the provisions of any amalgamation scheme, a police force shall be maintained for every region and for every islands area, and the provisions of this Act shall have effect in relation to any police force so maintained and to the constables thereof.”

^{X5}(3) In section 2(1) (police authorities), for the words from the beginning to “police authority” there shall be substituted the words “For every police area which is a region, the regional council, and for every police area which is an islands area the islands council, shall be the police authority”.

^{X5}(4) Section 4(3) of that Act (same person may be chief constable of more than one police force) shall cease to have effect on 16th May 1975.

^{X5}(5) Section 18 of that Act (jurisdiction of constables as respects execution of warrants in border counties of England and Scotland) shall be amended as follows—

(a) in subsection (1) for the words from “Scotland” to “Dumfries” there shall be substituted the words “any one of the border [^{F32}areas] of Scotland, that is to say, the counties of Northumberland or Cumbria, or the [^{F32}areas] of the Borders or Dumfries and Galloway”, and after the word “counties” or “county” wherever it occurs there shall be inserted respectively the words “or [^{F32}areas]” or “or [^{F32}area]”;

(b) in subsection (2) for paragraph (b) there shall be substituted the following paragraph—

“(b) references to the [^{F32}area] of the Borders or Dumfries and Galloway shall be construed as including references to a combined area within the meaning of this Act comprising either of those [^{F32}areas].”

^{X5}(6) In sections 20(5) (power of Secretary of State to make amalgamation schemes) and 29(3) (local inquiries) of that Act, for the reference to subsections (3) to (9) of section 355 of the Local Government (Scotland) Act 1947 there shall be substituted a reference to subsections (3) to (8) of section 210 of the Local Government (Scotland) Act 1973.

^{F33}(7)

^{X5}(8) For section 23 of that Act there shall be substituted the following section—

“23 Chief constables affected by amalgamations or local government reorganisations.

(1) If the chief constable of a police force which ceases to exist in consequence of an amalgamation scheme, or an order under section 216 of the Local Government (Scotland) Act 1973, is not appointed as from the date when that police force ceases to exist—

- (a) chief constable of the new force, or
- (b) constable of any rank in any other police force which exists on that date,

he shall on that date become a constable of the new force (or, if there is more than one new force established by the amalgamation scheme or order, of such

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one of them as may be provided by the scheme or order) by virtue of this subsection.

- (2) While a person is a constable of a police force by virtue only of subsection (1) above he shall hold the rank of assistant chief constable, but shall be treated for the purposes of his pay, pension and other conditions of service as if he had continued to be chief constable of the force which ceased to exist.
- (3) A chief constable who becomes a constable of a police force by virtue of subsection (1) above shall, subject to regulations under Part II of this Act, cease to be a constable thereof at the expiration of three months unless he has then accepted and taken up an appointment in that force in some other capacity.
- (4) The provision to be made by regulations under section 24 of the Superannuation Act 1972 or section 219 of the Local Government (Scotland) Act 1973 with respect to the chief constable of a police force who, after becoming a constable of another police force by virtue of subsection (1) above, ceases to be a constable of that force without having accepted and taken up an appointment in that force in a capacity other than that of chief constable shall, if he was the chief constable of a police force on 15th May 1975, be not less favourable than any provision by way of pension that would have been payable to or in respect of him by virtue of the Police Pensions Act 1948 had the first-mentioned police force been combined with another force by an amalgamation scheme under the Police (Scotland) Act 1956 and he had neither been transferred to the combined force nor agreed to continue to serve therein in a capacity other than that of chief constable within three months; and section 2(1)(b) of the Police Pensions Act 1948 shall not apply to a constable who is first appointed a chief constable on or after 16th May 1975 and who is affected by this section.
- (5) The relevant authority shall offer the chief constable of a police force which ceases to exist on 16th May 1975 (other than a chief constable who has been appointed the chief constable of a new force) an appointment to take effect not later than 16th August 1975 at the rank of assistant chief constable in the relevant new force.

(6) In this section—

“new force” has the same meaning as it has for the purposes of Schedule 2 to this Act;

“relevant authority” means the police authority or, as the case may be, the joint police committee responsible for the appointment of the chief constable of the relevant new force;

“relevant new force” means the new force to which the majority of the constables of a police force which ceases to exist on 16th May 1975 are transferred.”

^{x5}(9) In section 51 (1) (general interpretation), in the definition of “amalgamation scheme”, for the words “or section 20” there shall be substituted the words “section 20 or section 21A”.

(10) Sections 24 and 25 of the said Act of 1967 and Schedule 2 thereto shall, subject to any necessary modifications, apply to an order under section 215 of this Act as they apply to an amalgamation scheme under that Act.

Status: Point in time view as at 01/04/2002.

Changes to legislation: Local Government (Scotland) Act 1973, Part VIII is up to date with all changes known to be in force on or before 26 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

Editorial Information

X5 The text of ss. 130(3), 132(2), 134(2), 135(10), 138(2), 146(2)-(9), 147(2)(6)-(8), 155(2)(3)(5)-(7), 156(2)(3), 166(2), 170(2), 175, 184, 213(3), 237(1), Schs. 16, 19, 21 paras. 2-12 and Sch. 26 is in the form in which it was originally enacted: it was not reproduced in Statutes In Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991

Textual Amendments

F32 S. 146(5)(a)(b): words "areas" and "area" substituted (S.) (1.4.1996) for the words "regions" and "region" respectively by 1994 c. 39, s. 180(1), **Sch. 13 para. 92(42)**; S.I. 1996/323, **art. 4(1)(c)**

F33 S. 146(7) repealed (1.4.1996) by 1994 c. 39, s. 180(2), **Sch. 14**; S.I. 1996/323, **art. 4(1)(d)**, **Sch. 2**

Marginal Citations

M11 1967 c. 77.

[^{F34}147 Fire services.

- (1) Subject to the provisions of this section, the fire brigades maintained in Scotland for the purposes of the Fire Services Acts 1947 to 1959 by fire authorities or, where administration schemes have been made, joint committees for combined areas immediately before 1st April 1996 shall continue in existence on and after that date.
- (2) Subject to the provisions of the ^{M12}Fire Services Act 1947, the fire authority for the purposes of the Fire Services Acts 1947 to 1959 shall, until 31st March 1996, continue to be a regional or islands council and thereafter shall be a local authority.
- (3) The fire brigades for the existing fire authorities of Fife and Dumfries and Galloway shall be the fire brigades for the new fire authorities of the same names.
- (4) The Secretary of State shall, before 1st April 1996, by order make schemes (hereafter referred to as “administration schemes”) for the local government areas comprised in each of the combined areas set out in the Table at the end of this subsection for the provision in the combined area of the services required by section 1 of the Fire Services Act 1947; and the fire brigades for the existing areas shown in brackets in the first column shall be the fire brigades for the new combined areas.

TABLE

<i>Combined area</i>	<i>Local government areas comprised</i>
Central (Central Region).	Clackmannan, Falkirk, Stirling.
North Eastern (Grampian Region).	Aberdeenshire, City of Aberdeen, Moray.
Northern (Northern).	Highland, Orkney Islands, Shetland Islands, Western Isles.
South Eastern (South Eastern).	East Lothian, Midlothian, West Lothian, the Borders, City of Edinburgh.
Mid and South Western (Strathclyde Region).	Argyll and Bute, City of Glasgow, Dumbarton and Clydebank, East Dunbartonshire, Inverclyde, East Renfrewshire, East Ayrshire, North

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	Ayrshire, South Ayrshire, North Lanarkshire, South Lanarkshire, Renfrewshire.
Mid Eastern (Tayside Region).	Angus, City of Dundee, Perthshire and Kinross.

- (5) Subject to subsection (6) below, an administration scheme made under this section may contain such provision as the Secretary of State considers necessary or appropriate for the purposes of the scheme including, without prejudice to the generality of the foregoing, any provision which is required to be made, or which may be made, in an administration scheme under section 36 of the Fire Services Act 1947.
- (6) An administration scheme made under this section shall provide for the incorporation of the joint board with a common seal and shall confer on such a board power to hold land and to borrow money.
- (7) Before making an administration scheme under this section the Secretary of State shall—
 - (a) consult such fire authorities as appear to him to be affected by the scheme; and
 - (b) where any such authority submit objections to the scheme, inform that authority in writing whether he accepts the objections and, if he does not, why he does not.
- (8) An administration scheme made under this section shall not take effect before 1st April 1996, except so far as it relates to—
 - (a) the constitution of the joint board for fire services; and
 - (b) the performance by that board of functions necessary for bringing the scheme into full operation on that date.
- (9) A statutory instrument containing an order under this section shall be subject to annulment in pursuance of a resolution of either House of Parliament.]

Textual Amendments

F34 S. 147 substituted (6.4.1995) by 1994 c. 39, s. 36 (with s. 7(2)); S.I. 1995/702, art. 4(1), Sch. 2

Marginal Citations

M12 1947 c. 41.

148 Water.

^{F35}(1)

^{F36}(2)

(8) Schedule 17 to this Act shall have effect for making amendments to the enactments relating to water.

^{F36}(9)

Status: Point in time view as at 01/04/2002.

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Textual Amendments

- F35** S. 148(1) repealed (1.4.1996) by 1994 c. 39, s. 180(1)(2), Sch. 13 para. 92(40), **Sch. 14**; S.I. 1996/323, art. 4(1)(c)(d), **Sch. 2**
- F36** S. 148(2)–(7), (9) repealed by Water (Scotland) Act 1980 (c. 45), **Sch. 11**

^{F37} **149**

Textual Amendments

- F37** S. 149 repealed by Weights and Measures Act 1985 (c. 72, SIF 131), s. 98, **Sch. 13 Pt. I**

[^{F38} **150** **Schedule 18 to continue to have effect.**

Schedule 18 to this Act (amendment of certain enactments relating to transport) shall continue to have effect.]

Textual Amendments

- F38** S. 150 substituted (1.4.1996) by 1994 c. 39, s. 180(1), **Sch. 13 para. 92(43)**; S.I. 1996/323, **art. 4(1)(c)**

^{F39} **151**

Textual Amendments

- F39** S. 151 repealed by Transport Act 1985 (c. 67, SIF 126), s. 139(3), Sch. 3 para. 27, **Sch. 8**

^{F40} **152**

Textual Amendments

- F40** S. 152 repealed by Civil Aviation Act 1982 (c. 16), s. 109(3), **Sch. 16**

153 **Ferries.**

- (1) All rights which are presently vested in [^{F41}regional or islands councils] in relation to ferries, all functions relating thereto, and all liabilities to which those authorities are subject in that connection, are hereby transferred to the ^{F42}. . . council within whose area the ferry is situated.
- (2) A ^{F43}. . . council or any two or more ^{F44}. . . councils acting in combination may acquire, provide, maintain, improve and operate any ferry situated wholly or partly within their area or areas, but ^{F44}. . . a council or councils acting in combination may only exercise those powers as respects a ferry situated partly within their area or areas and partly

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within the area of another such council if the agreement of that other council has first been obtained.

- (3) A ^{F45} . . . council or any two or more ^{F46} . . . councils acting in combination may
- (a) incur capital expenditure and borrow money for the purposes of exercising their powers under subsection (2) above;
 - (b) lease or hire a ferry to or from another person on such conditions as they think fit;
 - (c) enter into arrangements with another person for the operation of a ferry by that person on their behalf; and
 - (d) from time to time fix fares and charges for the use of any ferry operated by virtue of this section, and adequate publicity as to those fares and charges shall be given by them within their area.
- (4) If in any year the revenue received by a council, or by two or more councils acting in combination, in respect of a ferry operated by virtue of this section is insufficient to defray the expenditure incurred in operating and maintaining in an efficient state any such ferry and any sums required to meet interest, sinking fund or other loan charges, the deficiency shall be met out of rates by the council in whom the ferry is vested, or in the case of a ferry vested in two or more councils in combination, by those councils in such proportions as may be fixed by the combination agreement.
- (5) In this section [^{F47}—]
- [^{F47}“council” means a council constituted under section 2 of the Local Government etc. (Scotland) Act 1994; and]
- “ferry” includes all rights pertaining thereto (including rights of access) and all boats, vessels, landing stages, plant and apparatus used in connection with the ferry, but does not include a harbour transferred by virtue of section 154 of this Act.

Textual Amendments

- F41** Words in s. 153(1) substituted (1.4.1996) by 1994 c. 39, s. 180(1), **Sch. 13 para. 92(44)(a)(i)**; S.I. 1996/323, **art. 4(1)(c)**
- F42** Words in s. 153(1) repealed (1.4.1996) by 1994 c. 39, s. 180(1)(2), **Sch. 13 para. 92(44)(a)(ii)**, **Sch. 14**; S.I. 1996/323, **art. 4(1)(c)(d)**, **Sch. 2**
- F43** Words in s. 153(2) repealed (1.4.1996) by 1994 c. 39, s. 180(1)(2), **Sch. 13 para. 92(44)(b)(i)**, **Sch. 14**; S.I. 1996/323, **art. 4(1)(c)(d)**, **Sch. 2**
- F44** Words in s. 153(2) repealed (1.4.1996) by 1994 c. 39, s. 180(1)(2), **Sch. 13 para. 92(44)(b)(ii)**, **Sch. 14**; S.I. 1996/323, **art. 4(1)(c)(d)**, **Sch. 2**
- F45** Words in s. 153(3) repealed (1.4.1996) by 1994 c. 39, s. 180(1)(2), **Sch. 13 para. 92(44)(c)(i)**, **Sch. 14**; S.I. 1996/323, **art. 4(1)(c)(d)**, **Sch. 2**
- F46** Word in s. 153(3) repealed (1.4.1996) by 1994 c. 39, s. 180(1)(2), **Sch. 13 para. 92(44)(c)(ii)**, **Sch. 14**; S.I. 1996/323, **art. 4(1)(c)(d)**, **Sch. 2**
- F47** Definition of "council" in s. 153(5) inserted (1.4.1996) by 1994 c. 39, s. 180(1), **Sch. 13 para. 92(44)(d)**; S.I. 1996/323, **art. 4(1)(c)**

154 Piers and Harbours.

- (1) ^{F48} . . . , all rights which are presently vested in [^{F49}regional, islands or district councils] in relation to harbours, piers, boatslips and jetties, all functions relating thereto, and all liabilities to which [^{F50}regional, islands or district councils] are subject in that

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connection, are hereby transferred to the ^{F51} . . . council within whose area the harbour, pier, boatslip or jetty is situated, and the enactments specified in Schedule 19 to this Act shall have effect subject to the amendments set out in that Schedule.

(2) Where a harbour is situated partly within the area of one ^{F52} . . . council and partly within the area of another ^{F52} . . . council, all such rights, functions and liabilities as aforesaid shall be transferred to those councils jointly.

(3) A ^{F53} . . . council or any two or more ^{F54} . . . councils acting in combination may acquire by agreement, or, if so authorised by the Secretary of State, may acquire compulsorily—

(a) land for the purpose of constructing, re-constructing, extending or improving a marine work;

(b) any harbour whose acquisition is considered by the council to be desirable in the interests of their area and

(i) whose maintenance is to be discontinued by its owner, or

(ii) which is considered by the council to be in a poor state of repair,

and sections 70(2) to (5) and 71(3) and (4) of this Act shall apply respectively to acquisition by agreement or compulsorily under this subsection as they apply for the purposes of those sections.

^{F55}(3A)

^{F55}(3B)

(4) If a local authority so elects and notifies the Secretary of State accordingly, Part III of the ^{M13}Harbours, Piers and Ferries (Scotland) Act 1937 shall apply to any harbour transferred to or acquired by them under this section which is not a marine work as if it were a marine work.

(5) A local authority may make loans to a harbour authority for a harbour wholly or partly situated within their area, on such terms as may be agreed between the local authority and the harbour authority, for the purpose of enabling the harbour authority to do anything which they have power to do.

(6) Where provisions of the ^{M14}Harbours, Docks and Piers Clauses Act 1847 have been incorporated with any enactment, the amendments made by this Act in that Act shall be so incorporated.

(7) In this section [^{F56}—]

[^{F56}“council” means a council constituted under section 2 of the Local Government etc. (Scotland) Act 1994; and]

“harbour authority” and “marine work” have the same meanings as in section 57(1) of the ^{M15}Harbours Act 1964 and so has “harbour” except that it does not include a ferry within the meaning of section 153(5) of this Act

Textual Amendments

F48 Words in s. 154(1) repealed (1.4.1996) by 1994 c. 39, s. 180(1)(2), Sch. 13 para. 92(45)(a)(i), Sch. 14; S.I. 1996/323, art. 4(1)(c)(d), Sch. 2

F49 Words in s. 154(1) substituted (1.4.1996) by 1994 c. 39, s. 180(1), Sch. 13 para. 92(45)(a)(ii); S.I. 1996/323, art. 4(1)(c)

F50 Words in s. 154(1) substituted (1.4.1996) by 1994 c. 39, s. 180(1), Sch. 13 para. 92(45)(a)(iii); S.I. 1996/323, art. 4(1)(c)

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- F51** Words in s. 154(1) repealed (1.4.1996) by 1994 c. 39, s. 180(1)(2), Sch. 13 para. 92(45)(a)(iv), **Sch. 14**; S.I. 1996/323, art. 4(1)(c)(d), **Sch. 2**
- F52** Words in s. 154(2) repealed (1.4.1996) by 1994 c. 39, s. 180(1)(2), Sch. 13 para. 92(45)(b), **Sch. 14**; S.I. 1996/323, art. 4(1)(c)(d), **Sch. 2**
- F53** Words in s. 154(3) repealed (1.4.1996) by 1994 c. 39, s. 180(1)(2), Sch. 13 para. 92(45)(c)(i), **Sch. 14**; S.I. 1996/323, art. 4(1)(c)(d), **Sch. 2**
- F54** Words in s. 154(3) repealed (1.4.1996) by 1994 c. 39, s. 180(1)(2), Sch. 13 para. 92(45)(c)(ii), **Sch. 14**; S.I. 1996/323, art. 4(1)(c)(d), **Sch. 2**
- F55** S. 154(3A)(3B) repealed (1.4.1996) by 1994 c. 39, s. 180(1)(2), Sch. 13 para. 92(45)(d), **Sch. 14**; S.I. 1996/323, art. 4(1)(c)(d), **Sch. 2**
- F56** Definition of "council" in s. 154(7) inserted (1.4.1996) by 1994 c. 39, s. 180(1), **Sch. 13 para. 92(45)(e)**; S.I. 1996/323, **art. 4(1)(c)**

Modifications etc. (not altering text)

- C2** S. 154 certain functions transferred (18.11.1990) by S.I. 1991/43, **art. 3(1)**.
S. 154 certain functions transferred (25.2.1991) by S.I. 1991/1082, **art. 3(1)**.
S. 154 certain functions transferred (8.2.1993) by S.I. 1993/321, **art. 3(1)**

Marginal Citations

- M13** 1937 c. 28.
- M14** 1847 c. 27.
- M15** 1964 c. 40.

^{F57} **154A**.....

Textual Amendments

- F57** S. 154A repealed (1.4.1996) by 1994 c. 39, s. 180(2), **Sch. 14**; S.I. 1996/323, art. 4(1)(d), **Sch. 2**

^{F58} **154B**.....

Textual Amendments

- F58** S. 154B repealed (1.4.1996) by 1994 c. 39, s. 180(2), **Sch. 14**; S.I. 1996/323, art. 4(1)(d), **Sch. 2**

155 Factories.

^{F59}(1).....

^{X6}(2) In section 46(6) (bye-laws), for the words “301 to 303” there shall be substituted the words “ 201 to 204 ” and for the word “1947”, where it twice occurs, there shall be substituted the word “ 1973 ”.

^{X6}(3) In section 47(1) (means of escape), the word “either” and the words from “or, where” to the end shall cease to have effect.

^{F60}(4).....

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- X⁶(5) In section 153(3) (provisions as to councils), the words “a county council and” shall cease to have effect.
- X⁶(6) Section 181(3) (definition of “district council” for certain purposes), shall cease to have effect.
- X⁶(7) In section 182 (application to Scotland), subsection (2) shall cease to have effect, and in subsection (9) for the words “county and town” there shall be substituted the words “ islands and district ”.

Editorial Information

X⁶ The text of ss. 130(3), 132(2), 134(2), 135(10), 138(2), 146(2)-(9), 147(2)(6)-(8), 155(2)(3)(5)-(7), 156(2)(3), 166(2), 170(2), 175, 184, 213(3), 237(1), Schs. 16, 19, 21 paras. 2-12 and Sch. 26 is in the form in which it was originally enacted: it was not reproduced in Statutes In Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991

Textual Amendments

- F⁵⁹ S. 155(1) repealed (1.4.1996) by 1994 c. 39, s. 180(1)(2), Sch. 13 para. 92(46), Sch. 14; S.I. 1996/323, art. 4(1)(c)(d), Sch. 2
- F⁶⁰ S. 155(4) repealed by Employment Act 1989 (c. 38, SIF 43:1), s. 29(4), Sch. 7 Pt. II

156 Offices, shops and railway premises.

F⁶¹(1)

- X⁷(2) In section 52(3) of that Act (enforcement authorities), paragraph (a) and in paragraph (c), the words “the council of a county” shall cease to have effect.
- X⁷(3) In section 62(3) (local inquiries), for the words from “(3)” to “1947” there shall be substituted the words “ (2) to (8) of section 210 of the Local Government (Scotland) Act 1973 ”.

Editorial Information

X⁷ The text of ss. 130(3), 132(2), 134(2), 135(10), 138(2), 146(2)-(9), 147(2)(6)-(8), 155(2)(3)(5)-(7), 156(2)(3), 166(2), 170(2), 175, 184, 213(3), 237(1), Schs. 16, 19, 21 paras. 2-12 and Sch. 26 is in the form in which it was originally enacted: it was not reproduced in Statutes In Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991

Textual Amendments

- F⁶¹ S. 156(1) repealed (1.4.1996) by 1994 c. 39, s. 180(1)(2), Sch. 13 para. 92(47), Sch. 14; S.I. 1996/323, art. 4(1)(c)(d), Sch. 2

F⁶² 157

Status: Point in time view as at 01/04/2002.

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Textual Amendments

F62 S. 157 repealed (1.12.1994) by 1994 c. 40, s. 81, **Sch. 17**; S.I. 1994/3037, **art. 2(e)(v)** and expressed to be repealed (prosp.) by 1994 c. 39, ss. 180(1)(2), 184(2), Sch. 13 para. 92(48), **Sch. 14**

^{F63} **158**

Textual Amendments

F63 Ss. 158, 162, 164 repealed by Local Government and Planning (Scotland) Act 1982 (c. 43), **Sch. 4 Pt. I**

^{F64} **159**

Textual Amendments

F64 S. 159 repealed (1.4.1996) by 1994 c. 39, s. 180(1)(2), Sch. 13 para. 92(49), **Sch. 14**; S.I. 1996/323, art. 4(1)(c)(d), **Sch. 2**

^{F65} **160**

Textual Amendments

F65 S. 160 repealed by Employment Act 1989 (c. 38, SIF 43:1), s. 29(4), **Sch. 7 Pt. II**

^{F66} **161**

Textual Amendments

F66 S. 161 repealed (1.4.1996) by 1994 c. 39, s. 180(2), **Sch. 14**; S.I. 1996/323, art. 4(1)(d), **Sch. 2**

^{F67} **162**

Textual Amendments

F67 Ss. 158, 162, 164 repealed by Local Government and Planning (Scotland) Act 1982 (c. 43), **Sch. 4 Pt. I**

163 Public libraries, museums and art galleries.

^{F68}(1)

Status: Point in time view as at 01/04/2002.

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(2) A local authority ^{F69} . . . shall have a duty to secure the provision of adequate library facilities for all persons resident in their area.

^{F70}(3)

(4) Schedule 21 to this Act shall have effect for making amendments to the enactments relating to public libraries, museums and art galleries.

Textual Amendments

F68 S. 163(1) repealed (1.4.1996) by 1994 c. 39, s. 180(1)(2), Sch. 13 para. 92(50)(a), **Sch. 14**; S.I. 1996/323, art. 4(1)(c)(d), **Sch. 2**

F69 Words in s. 163(2) repealed (1.4.1996) by 1994 c. 39, s. 180(1)(2), Sch. 13 para. 92(50)(b), **Sch. 14**; S.I. 1996/323, art. 4(1)(c)(d), **Sch. 2**

F70 S. 163(3) repealed (1.4.1996) by 1994 c. 39, s. 180(1)(2), Sch. 13 para. 92(50)(c), **Sch. 14**; S.I. 1996/323, art. 4(1)(c)(d), **Sch. 2**

^{F71}**164**

Textual Amendments

F71 Ss. 158, 162, 164 repealed by **Local Government and Planning (Scotland) Act 1982 (c. 43)**, **Sch. 4 Pt. I**

165 Spray irrigation.

The functions of river purification boards under the ^{M16}Spray Irrigation (Scotland) Act 1964 shall be exercisable by river purification authorities, and accordingly in that Act, for the words “board” and “boards”, wherever they occur, there shall be substituted respectively the words “authority” and “authorities”.

Marginal Citations

M16 1964 c. 90.

166 Registration of births, deaths and marriages.

^{F72}(1)

^{X8}(2) Accordingly the following amendments shall be made in that Act—

^{F73}(a)

(b) in section 6(4) (local inquiries), for the words from “subsections” to “1947” there shall be substituted the words “ subsections (2) to (8) of section 210 of the Local Government (Scotland) Act 1973 ”;

(c) in section 8(5) (custody of keys), the words from “by their” to “town clerk” shall cease to have effect;

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- (d) in section 9(2) (combination of local authorities), for the words from “section”, where last occurring, to “1947” there shall be substituted the words “ sections 56 to 58 of the Local Government (Scotland) Act 1973 ”;

^{F73}(e)

^{F73}(f)

Editorial Information

X8 The text of ss. 130(3), 132(2), 134(2), 135(10), 138(2), 146(2)-(9), 147(2)(6)-(8), 155(2)(3)(5)-(7), 156(2)(3), 166(2), 170(2), 175, 184, 213(3), 237(1), Schs. 16, 19, 21 paras. 2-12 and Sch. 26 is in the form in which it was originally enacted: it was not reproduced in Statutes In Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991

Textual Amendments

F72 S. 166(1) repealed (1.4.1996) by 1994 c. 39, s. 180(2), **Sch. 14**; S.I. 1996/323, art. 4(1)(d), **Sch. 2**

F73 S. 166(2)(a)(e)(f) repealed (1.4.1996) by 1994 c. 39, s. 180(2), **Sch. 14**; S.I. 1996/323, art. 4(1)(d), **Sch. 2**

^{F74}**167**

Textual Amendments

F74 S. 167 repealed by Statute Law (Repeals) Act 1981 (c. 19), **Sch. 1 Pt. VII**

^{F75}**168**

Textual Amendments

F75 S. 168 repealed (1.4.1996) by 1994 c. 39, s. 180(1)(2), Sch. 13 para. 92(51), **Sch. 14**; S.I. 1996/323, art. 4(1)(c)(d), **Sch. 2**

169 Burial grounds, churchyards etc.

- (1) The functions of [^{F76}islands or district councils] under the ^{M17}Burial Grounds (Scotland) Act 1855 and the ^{M18}Cremation Acts 1902 ^{M19} and 1952 shall be transferred to and vest in [^{F77}councils constituted under section 2 of the Local Government etc. (Scotland) Act 1994].

- (2) The functions of councils under the ^{M20M21}Church of Scotland (Property and Endowments) Acts 1925 and 1933 shall be transferred to and vest in islands and district councils in accordance with the amendments to those Acts set out in Part II of Schedule 27 to this Act.

Textual Amendments

F76 Words in s. 169(1) substituted (1.4.1996) by 1994 c. 39, s. 180(1), **Sch. 13 para. 92(52)(a)**; S.I. 1996/323, **art. 4(1)(c)**

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F77 Words in s. 169(1) substituted (1.4.1996) by 1994 c. 39, s. 180(1), **Sch. 13 para. 92(52)(b)**; S.I. 1996/323, **art. 4(1)(c)**

Marginal Citations

M17 1855 c. 68.

M18 1902 c. 8.

M19 1952 c. 31.

M20 1925 c. 33.

M21 1933 c. 44.

170 War memorials.

(1) The local authority for the purposes of the ^{M22}War Memorials (Local Authorities' Powers) Act 1923 as extended to Scotland by section 133(3) of the ^{M23}Local Government Act 1948 shall be a [^{F78}local authority within the meaning of this Act]; and the powers conferred on a local authority by section 1 of the said Act of 1923 as so extended with regard to war memorials shall apply to any war memorial outside as well as within their area.

^{X9}(2) In consequence of subsection (1) above the said section 133(3) shall have effect as if—

(a) after the word “modifications” there were inserted the following head—

“(ia) in section 1, for the words “within their district” there shall be substituted the words “ whether within or outside their area ”;”

(b) for head (ii) there were substituted the following head—

“(ii) “local authority” means a regional, islands or district council.”

Editorial Information

X9 The text of ss. 130(3), 132(2), 134(2), 135(10), 138(2), 146(2)-(9), 147(2)(6)-(8), 155(2)(3)(5)-(7), 156(2)(3), 166(2), 170(2), 175, 184, 213(3), 237(1), Schs. 16, 19, 21 paras. 2-12 and Sch. 26 is in the form in which it was originally enacted: it was not reproduced in Statutes In Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991

Textual Amendments

F78 Words in s. 170(1) substituted (1.4.1996) by 1994 c. 39, s. 180(1), **Sch. 13 para. 92(53)**; S.I. 1996/323, **art. 4(1)(c)**

Marginal Citations

M22 1923 c. 18.

M23 1948 c. 26.

[^{F79} Heating and electricity

Textual Amendments

F79 Ss. 170A, 170B inserted by Electricity Act 1989 (c. 29, SIF 44:1), ss. 102, 112(3), Sch. 13, **Sch. 13 para. 35(1)**

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170A Production and supply of heat and electricity etc. by local authorities.

- (1) Subject to subsections (2) and (3) of this section, a local authority may—
 - (a) produce heat or electricity or both;
 - (b) establish and operate such generating stations and other installations as the authority think fit for the purpose of producing heat or electricity or both;
 - (c) buy or otherwise acquire heat;
 - (d) use, sell or otherwise dispose of heat produced or acquired, or electricity produced, by the authority by virtue of this section;
 - (e) without prejudice to the generality of the preceding paragraph, enter into and carry out agreements for the supply by the authority, to premises within or outside the authority’s area, of such heat as is mentioned in the preceding paragraphs and steam produced from and air and water heated by such heat.
- (2) Nothing in subsection (1) of this section shall be construed as exempting a local authority from the requirements of Part I of the Electricity Act 1989.
- (3) Except in such cases as may be prescribed, [^{F80}or in cases where it is produced from waste,] a local authority shall not be entitled to sell electricity which is produced otherwise than in association with heat.
- (4) A local authority may—
 - (a) construct, lay and maintain pipes and associated works for the purpose of conveying heat produced or acquired by the authority by virtue of this section and steam produced from and air and water heated by such heat;
 - (b) contribute towards the cost incurred by another person in providing or maintaining pipes or associated works which are connected with pipes provided by the authority in pursuance of the preceding paragraph.
- (5) Parts I and II of Schedule 3 to the ^{M24}Water (Scotland) Act 1980 (which relate to the breaking open of roads and the laying of communication and supply pipes etc.) shall apply in relation to pipes and associated works provided or to be provided in pursuance of paragraph (a) of the preceding subsection as those Parts apply in relation to water mains and pipes but as if—
 - ^{F81}(a)
 - (b) for the reference to the special Act in paragraph 2(3) of that Schedule there were substituted a reference to this subsection; [^{F82}and
 - (c) for any reference to [^{F83}Scottish Water] there were substituted a reference to the local authority in question, whether acting alone or jointly with some other person.]
- (6) It shall be the duty of a local authority by whom an installation for producing heat is operated in pursuance of this section in any financial year to furnish to the Secretary of State, as soon as practicable after the end of that year, such particulars relating to the installation and heat produced at the installation as are prescribed.
- (7) In this section “associated works” in relation to pipes, means any of the following connected with the pipes, namely, any valve, filter, stopcock, pump, meter, inspection chamber and manhole and such other works as are prescribed.
- (8) Nothing in this section (except the restrictions imposed by subsection (3)) shall be construed as prejudicing any power exercisable by a local authority apart from this section.

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- (9) Regulations under subsection (3) of this section shall be subject to annulment in pursuance of a resolution of either House of Parliament.

Textual Amendments

- F80** Words in s. 170A(3) inserted (1.4.1991) by Environmental Protection Act 1990 (c. 43, SIF 46:4), s. 162(1), **Sch. 15 para. 13**; S.I. 1991/1042, **art. 2**
- F81** S. 170A(5)(a) repealed (1.4.1996) by 1994 c. 39, s. 180(1)(2), Sch. 13 para. 92(54)(a), **Sch. 14**; S.I. 1996/323, art. 4(1)(c)(d), **Sch. 2**
- F82** S. 170A(5)(c) and preceding word substituted (1.4.1996) for s. 170A(5)(c)(d) by 1994 c. 39, s. 180(1), **Sch. 13 para. 92(54)(b)**; S.I. 1996/323, **art. 4(1)(c)**
- F83** Words in s. 170A(5)(c) substituted (1.4.2002) by Water Industry (Scotland) Act 2002 (asp 3), ss. 71(2), 72, **Sch. 7 para. 6(2)** (with s. 67); S.S.I. 2002/118, **art. 2(3)**

Marginal Citations

- M24** 1980 c. 45 ((130)).

170B Provisions supplementary to s. 170A.

- (1) A local authority who supply or propose to supply heat, hot air, hot water or steam in pursuance of the preceding section may make byelaws—
- with respect to the works and apparatus to be provided or used by persons other than the authority in connection with the supply;
 - for preventing waste and unauthorised use of the supply and unauthorised interference with works and apparatus used by the authority or any other person in connection with the supply;
 - providing for any specified contravention of the byelaws to be an offence punishable on summary conviction with a fine of such an amount, not exceeding level 3 on the standard scale, as is specified in the byelaws.
- (2) Subsections (1) to (7) of section 38 of the ^{M25}Water (Scotland) Act 1980 (which relates to the entry of premises by authorised officers of [^{F84}Scottish Water]^{F85}. . .) shall have effect for the purpose of authorising the entry of premises by authorised officers of a local authority who provide or propose to provide such a supply as is mentioned in the preceding subsection as if for any reference to [^{F86}Scottish Water] there were substituted a reference to the local authority and as if in subsection (1) of that section—
- for [^{F87}paragraphs (aa) to (ac)] there were substituted the following paragraph—
 - for the purpose of installing, examining, adjusting, removing or reading any meter used or to be used by the local authority for measuring the heat, hot air, hot water or steam supplied or to be supplied by that authority;”;
 - for the words from “this Act” onwards in paragraph (b) there were substituted the words “ byelaws in force by virtue of section 170B of the ^{M26}Local Government (Scotland) Act 1973 ”; and
 - for the words “this Act” in paragraphs (c) and (d) there were substituted the words “ section 170A of that Act ”.
- (3) Regulations may repeal or alter subsection (1) of this section or any provision of byelaws in force by virtue of that subsection and may make any modification of

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the preceding subsection which the Secretary of State considers is appropriate in consequence of the repeal or alteration.

- (4) An instrument containing regulations under subsection (3) of this section shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (5) Section 80 of the Health and Safety at Work etc. Act 1974 (which among other things provides that regulations under subsection (1) of that section may repeal or modify any provision to which that subsection applies if it appears to the authority making the regulations that it is expedient to do so in consequence of any provision made by or under Part I of that Act) shall have effect as if the provisions to which subsection (1) of that section applies included subsection (1) of this section and byelaws in force by virtue of subsection (1) of this section.
- (6) The accounts of a local authority by whom expenditure is incurred under any of the provisions of the preceding section and this section shall include a separate account of that expenditure and of any income connected with functions conferred on the authority by those provisions.]

Textual Amendments

- F84** Words in s. 170B(2) substituted (1.4.2002) by [Water Industry \(Scotland\) Act 2002 \(asp 3\)](#), ss. 71(2), 72, [Sch. 7 para. 6\(3\)\(a\)](#) (with s. 67); S.S.I. 2002/118, [art. 2\(3\)](#)
- F85** Words in s. 170B(2) repealed (1.4.1996) by 1994 c. 39, s. 180(1)(2), [Sch. 13 para. 92\(55\)\(a\)](#), [Sch. 14](#); S.I. 1996/323, [art. 4\(1\)\(c\)\(d\)](#), [Sch. 2](#)
- F86** Words in s. 170B(2) substituted (1.4.2002) by [Water Industry \(Scotland\) Act 2002 \(asp 3\)](#), ss. 71(2), 72, [Sch. 7 para. 6\(3\)\(b\)](#) (with s. 67); S.S.I. 2002/118, [art. 2\(3\)](#)
- F87** Words in s. 170B(2)(a) substituted (1.4.2002) by [Water Industry \(Scotland\) Act 2002 \(asp 3\)](#), ss. 71(2), 72, [Sch. 7 para. 6\(3\)\(c\)](#) (with s. 67); S.S.I. 2002/118, [art. 2\(3\)](#)

Marginal Citations

- M25** 1980 c. 45 (130).
- M26** 1973 c. 65 (81:2).

171 Miscellaneous functions, etc.

- F88**(1)
- F88**(2)
- F89**(3)

Textual Amendments

- F88** S. 171(1)(2) repealed (1.4.1996) by 1994 c. 39, s. 180(1)(2), [Sch. 13 para. 92\(56\)](#), [Sch. 14](#); S.I. 1996/323, [art. 4\(1\)\(c\)\(d\)](#), [Sch. 2](#)
- F89** S. 171(3) repealed by [Statute Law \(Repeals\) Act 1978 \(c. 45\)](#), [Sch. 1 Pt. XII](#)

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