



# Local Government (Scotland) Act 1973

## 1973 CHAPTER 65

### PART XII

#### MISCELLANEOUS, GENERAL AND TRANSITIONAL

##### *Miscellaneous*

#### **209 Removal or relaxation of controls affecting certain local authority functions**

- (1) For the purpose of removing or relaxing controls which affect the exercise by local authorities of certain functions, including limits imposed on the amount of the fees which may be charged by local authorities in connection with the issue of licences and the exercise of other functions, the enactments specified in Schedule 25 to this Act shall have effect subject to the amendments set out in that Schedule.
- (2) Without prejudice to subsection (1) above, the Secretary of State may by order made by statutory instrument make provision for the removal or relaxation of any control, including any such limit as is referred to in subsection (1) above, which affects the exercise of any function by a local authority and which is conferred by or under any enactment on a Minister of the Crown or a body constituted by or under any enactment.
- (3) An order made under this section may contain such incidental or consequential provisions as appear to the Secretary of State to be appropriate, including provisions amending or repealing or revoking, with or without savings, any enactment passed before this Act and any instrument made under any such enactment.
- (4) A statutory instrument containing an order under this section shall be of no effect unless approved by a resolution of each House of Parliament.
- (5) In this section "local authority" includes a Passenger Transport Executive.

#### **210 Power to direct inquiries**

- (1) Where any Minister is authorised by this Act to determine any difference, to make or confirm any order, to frame any scheme, or to give any consent, confirmation,

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*Status: This is the original version (as it was originally enacted).*

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sanction or approval to any matter, or otherwise to act under this Act or under any other enactment, or where the Secretary of State is authorised to hold an inquiry, either under this Act or under any other enactment relating to the functions of a local authority, he may cause a local inquiry to be held.

- (2) Except as otherwise provided in any enactment, the Minister may appoint an officer of his Department or any other person to conduct the inquiry and to report thereon to him.
- (3) The person appointed to hold the inquiry shall cause notice of the time and place of the inquiry to be given to the bodies and persons appearing to him to be interested.
- (4) For the purpose of any such local inquiry, the person appointed to hold the inquiry may by notice in writing require any person to attend, at a time and place stated in the notice, to give evidence or to produce any books or other documents in his custody or under his control which relate to any matter in question at the inquiry, and may take evidence on oath, and for that purpose administer oaths:

Provided that—

- (a) no person shall be required, in obedience to such a notice, to attend to give evidence or to produce any such books or other documents, unless the necessary expenses of his attendance are paid or tendered to him ; and
  - (b) nothing in this subsection shall empower the person holding the inquiry to require any person to produce any book or document or to answer any question which he would be entitled on the ground of privilege or confidentiality, to refuse to produce or to answer if the inquiry were a proceeding in a court of law.
- (5) Any person who refuses or wilfully neglects to attend in obedience to a notice under this section to give evidence or who wilfully alters, suppresses, conceals, destroys or refuses to produce any book or other document which he is required or is liable to be required to produce for the purposes of this section shall be liable on summary conviction to a fine not exceeding £20 or to imprisonment for a term not exceeding three months, or to both.
  - (6) The Minister causing the inquiry to be held may, if he thinks fit, pay such expenses of witnesses and such expenses of or concerning the production of any books or other documents as to him seems reasonable, and such expenses shall be deemed to be part of the expenses of the inquiry.
  - (7) The expenses incurred by a Minister in relation to any such inquiry (including such reasonable sum as he may determine for the services of any officer of a Government Department engaged in the inquiry) shall, unless he is of opinion having regard to the object and result of the inquiry that the expenses should be defrayed in whole or in part by him, be paid by such local authority or party to the inquiry as he may direct, and the Minister may certify the amount of the expenses so incurred, and any sum so certified and directed by him to be paid to him by any authority or person shall be a debt due by that authority or person to the Crown and shall be recoverable accordingly.
  - (8) The Minister causing an inquiry to be held may make an award as to the expenses of the parties at the inquiry, and as to the parties by whom such expenses shall be paid.
  - (9) This section shall not apply in the case of a local inquiry held under any enactment where the enactment contains provisions with regard to such inquiries.

## **211 Provision for default of local authority**

- (1) If a complaint is made to the Secretary of State or any appropriate Minister that a local authority have failed to do what is required of them by or under this Act or any other enactment or the Secretary of State or that Minister is of opinion that an investigation should be made as to whether a local authority have so failed, he may cause a local inquiry to be held into the matter.
- (2) If after such a local inquiry the Secretary of State or appropriate Minister is satisfied that there has been such a failure on the part of the authority in question, he may make an order declaring the authority to be in default and directing them for the purpose of remedying the default to take such steps and within such time or times as may be specified in the order.
- (3) If the authority declared to be in default by such an order fail to comply with any requirement thereof within the time limited thereby for compliance with that requirement, the Court of Session may, on the application of the Lord Advocate on behalf of the Secretary of State or appropriate Minister, order specific performance of the functions in respect of which there has been default, and do otherwise as to the court appears to be just.
- (4) Nothing in this section shall affect the provisions of any other enactment relating to the enforcement of a statutory duty whether under that enactment or otherwise.

## **212 Limitation of liability of certain owners**

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

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

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

## **213 Tweed Fisheries Commissioners**

- (1) On 16th May 1975 each person holding office as a representative commissioner under the Tweed Fisheries Act 1969 shall go out of office.
- (2) The function of appointing representative commissioners under the said Act of 1969 shall be transferred to the district councils of Berwickshire, Roxburgh, Ettrick and Lauderdale and Tweeddale and the Berwick on Tweed District Council.
- (3) The said Act of 1969 shall have effect subject to the amendments set out in Schedule 26 to this Act.