



Local Government (Scotland) Act 1947

1947 CHAPTER 43

PART IV

OFFICERS.

Officers of Town Council.

84 Town clerk.

- (1) Every town council shall appoint a town clerk of the burgh who shall be clerk of the council and may pay to him such reasonable salary as they may determine.
- (2) Subject to the provisions of this Part of this Act relating to officers holding office at the commencement of this Act, the salary paid to the town clerk shall, unless otherwise agreed between the town clerk and the town council, be deemed to be the remuneration for all business which he may by reason of his office as town clerk be called upon to perform, including any legal, parliamentary or other business which he may transact on behalf of the council.
- (3) Subject to the provisions of this Part of this Act relating to officers holding office at the commencement of this Act, a town clerk shall, notwithstanding any law or practice to the contrary, hold office during the pleasure of the town council, so however that he shall not be removed from office except by a resolution of the council passed by not less than two-thirds of the members present at a meeting of the council specially called for the purpose, by a circular addressed to the members of the council not less than forty-eight hours nor more than fourteen days before the meeting.
- (4) A town clerk, a depute town clerk, or a partner of, or a person in the employment of a town clerk or a depute town clerk shall not act as agent or solicitor or prosecutor—
 - (a) on behalf of any party in the trial of any offence in any police court of the burgh; or
 - (b) on behalf of any party in any opposed proceedings before the dean of guild court of the burgh unless the court have the assistance as legal assessor of an

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independent person and, where he acts for a party other than the town council, the sanction of the council has previously been obtained thereto;

and in the event of a contravention of this provision the town clerk or the depute town clerk, as the case may be, shall be forthwith disqualified from holding any office under the council and from being at any time thereafter elected a town councillor, so however that the said disqualification may be removed on the recommendation of the council by an order made by the Secretary of State.

85 Town chamberlain.

- (1) Every town council shall appoint a town chamberlain of the burgh who shall be the chief financial officer of the council and may pay to him such reasonable salary as they may determine. Any reference in this Act to the treasurer of a local authority shall in its application to a town council be construed as a reference to the town chamberlain.
- (2) Regulations may be made by the Secretary of State prescribing the qualifications which shall be required to be possessed by any person appointed to the office of town chamberlain by a town council, and after the date of the regulations or after such later date as may be therein prescribed a person shall not be appointed to that office unless he possesses such qualifications.
- (3) Subject to the provisions of this Part of this Act relating to officers holding office at the commencement of this Act, the offices of town clerk and town chamberlain shall not, except with the sanction of the Secretary of State, be held by the same person or by persons who stand in relation to one another as partners or as employer and employee.
- (4) The town chamberlain shall hold office during the pleasure of the town council, so however that he shall not be removed from office except by a resolution passed by not less than two-thirds of the members present at a meeting of the council the notice of which specifies the consideration of the removal from office of the town chamberlain as an item of business.

86 Burgh collector.

- (1) Every town council shall appoint a burgh collector who shall be the collector of rates levied by the council and may pay to him such reasonable salary as they may determine.
- (2) The burgh collector shall hold office during the pleasure of the town council, so however that he shall not be removed from office except by a resolution of the council passed by not less than two-thirds of the members of the council present at a meeting of the council the notice of which specifies the consideration of the removal from office of the burgh collector as an item of business.

87 Burgh medical officer of health and burgh sanitary inspector.

- (1) Every town council shall appoint a medical officer who shall be called the medical officer of health of the burgh, and an officer who shall be called the sanitary inspector of the burgh, and shall, subject to the approval of the Secretary of State, regulate the duties of the medical officer and- sanitary inspector and their relations to each other, and may pay such officers such reasonable salaries as the council may determine.

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- (2) A person shall not be appointed medical officer of health of a burgh unless he is a registered medical practitioner and is registered on the medical register as the holder of a diploma in sanitary science, public health or state medicine.
- (3) Except with the sanction of the Secretary of State, no person shall be appointed sanitary inspector of a burgh unless he possesses such qualifications as may be prescribed by the Secretary of State.
- (4) The names and addresses of the medical officer of health and the sanitary inspector appointed under this section shall be reported by the town council to the Secretary of State immediately on any such appointment being made.
- (5) Subject to the provisions of this Part of this Act relating to officers holding office at the commencement of this Act, the offices of medical officer of health of a burgh and sanitary inspector of a burgh shall not be held by the same person or by persons who stand in relation to one another as partners or as employer and employee.
- (6) Subject to the provisions of this Part of this Act relating to officers holding office at the commencement of this Act, the medical officer of health of a large burgh or the sanitary inspector of a large burgh shall not hold any other appointment or engage in private practice or employment without the written consent of the town council.
- (7) On any vacancy arising in the post of the medical officer of health of a small burgh, then, unless in any particular case the Secretary of State otherwise agrees, the medical officer of health of the county within which the burgh is situated shall be appointed to the office by the town council of the burgh who shall pay to the county council such proportion of the salary and expenses of the officer as the county council and the town council may agree and failing agreement as may be determined by the Secretary of State.
- (8) Neither the medical officer of health nor the sanitary inspector of a burgh shall be removable from office except by or with the sanction of the Secretary of State.
- (9) The sanitary inspector of a burgh shall be the inspector of common lodging-houses within the meaning of the Public Health Acts.
- (10) The medical officer of health of a burgh and the sanitary inspector of a burgh shall make to the Secretary of State such annual and other reports and returns as he may require, and such reports and returns shall be in such form as he may direct.
- (11) A town council of a large burgh may appoint for the purposes of this section two or more medical officers of health or two or more sanitary inspectors:

Provided that—

- (a) there shall be only one person holding the statutory office of medical officer of health for any particular part of the burgh; and
- (b) there shall, save as hereinafter provided, be only one person holding the statutory office of sanitary inspector for any particular part of the burgh, so however that the council may if they consider it necessary appoint two or more sanitary inspectors for the burgh or any particular part of the burgh, so long as there is assigned to each of the sanitary inspectors so appointed a separate specified part of the duties pertaining to the office of sanitary inspector;

and where any appointments are made under this subsection the other provisions of this section shall apply subject to the necessary modifications.

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88 Burgh surveyor, inspector of cleansing and inspector of lighting.

- (1) Every town council shall appoint a burgh surveyor whose duties shall include acting as surveyor of the paving and drainage with respect to which the council exercise any function under any enactment or byelaw:

Provided that this subsection shall not apply where under or in pursuance of a local Act a town council appoint an officer whose functions include the aforesaid functions of the burgh surveyor.

- (2) A town council may appoint an inspector of cleansing of the burgh whose duties shall include superintending and securing compliance with the provisions of the enactments and byelaws relating to cleansing.
- (3) A town council may appoint an inspector of lighting of the burgh whose duties shall include superintending and securing compliance with the provisions of the enactments and byelaws relating to lighting.
- (4) The town council may pay to the burgh surveyor, the inspector of cleansing and the inspector of lighting such reasonable salaries as they may determine.
- (5) The burgh surveyor, the inspector of cleansing and the inspector of lighting shall hold office during the pleasure of the town council, so however that any such officer shall not be removed from office except by a resolution of the council passed by not less than two-thirds of the "members present at a meeting of the council the notice of which specifies the consideration of the removal from office of the officer as an item of business.

89 Clerk of burgh police court.

- (1) The town council shall appoint a clerk of the police court of the burgh and may pay to the person so appointed such reasonable salary as they may determine.
- (2) Where in any burgh there are two or more police courts, the town council may appoint more than one clerk of the police court and may pay to each such clerk such reasonable salary as they may determine.
- (3) A clerk of the police court shall hold office during the pleasure of the town council.

90 Burgh prosecutor.

- (1) Every town council shall appoint a burgh prosecutor, and may pay to him such reasonable salary as they may determine.
- (2) The burgh prosecutor shall within the burgh have all the powers and privileges pertaining by law to a procurator fiscal.
- (3) Subject to the provisions of this Part of this Act relating to officers holding office at the commencement of this Act, neither the offices of town clerk and burgh prosecutor nor the offices of clerk of police court and burgh prosecutor shall be held by the same person or by persons who stand in relation to one another as partners or as employer and employee.
- (4) In the absence of the burgh prosecutor or any depute or any person acting temporarily in that office, the magistrate or other person presiding at the police court may appoint a person to act in name and on behalf of the burgh prosecutor at any diet and sign

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complaints for him, so however that the burgh prosecutor shall not be responsible for the acts of any such person.

- (5) A burgh prosecutor shall not be removed from office or have his salary diminished by the town council without consent of the provost or acting chief magistrate of the burgh and the sheriff (not being a sheriff substitute) or, in the case of their differing in opinion, of the Lord Advocate, but a burgh prosecutor may be suspended by the magistrates of the burgh, with consent of the sheriff (not being a sheriff substitute), for a definite period pending any inquiry with a view to his removal:

Provided that this subsection shall not apply in any case where provision is made by a local Act with respect to the removal from office of the burgh prosecutor.

91 Burgh valuation assessor.

- (1) An assessor under the Valuation Acts appointed by a town council, being a local authority for the purposes of the Valuation Acts, shall hold office during the pleasure of the council, so however that he shall not be removed from office except by a resolution of the council passed by not less than two-thirds of the members present at a meeting of the council the notice of which specifies the consideration of the removal from office of the assessor as an item of business.
- (2) It shall not be lawful for a town council to appoint an officer of Inland Revenue to be assessor under the Valuation Acts or for such an officer to continue to act as assessor without the consent of the Treasury, and where an officer of Inland Revenue is appointed assessor with the consent of the Treasury, the amount of the salary payable to him shall be subject to the approval of the Treasury, and any regulations made with respect to his duties as assessor shall likewise be subject to the approval of the Treasury.

92 Appointment of other staff.

- (1) Every town council shall appoint such other officers as the council think necessary for the efficient discharge of the functions of the council.
- (2) A town council may pay to every officer appointed by the council under this section such reasonable salary as they may determine, and every such officer shall hold office during the pleasure of the council.
- (3) Nothing in the foregoing provisions of this section shall be deemed to affect the provisions of any enactment or statutory order requiring the appointment of any officer for the purposes of that enactment or order.
- (4) Save as otherwise provided in this Part of this Act or in any other enactment or any statutory order relating to the employment of an officer, a town council may if they think fit appoint two or more persons jointly to fill one office or one person to fill two or more offices under the council, and where two or more persons are appointed jointly to fill an office, then, on the death of any of them, unless otherwise provided in the terms of the appointment, the survivors or survivor shall be deemed to be the holders or holder of the office.

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93 Appointment of depute or interim officers.

- (1) A town clerk, a town chamberlain, a burgh collector, a medical officer of health of a burgh, a sanitary inspector of a burgh, a burgh surveyor, an inspector of cleansing of a burgh, an inspector of lighting of a burgh, a clerk of police court, a burgh prosecutor or an assessor under the Valuation Acts appointed by a town council may, and if required by the town council shall, appoint one or more persons approved by the town council to act as his depute or deputies, and all things required or authorised by law to be done by or to the officer appointing the depute or deputies may be done by or to any depute so appointed by him, and any reference in this Act or any other enactment or any statutory order to the officer appointing the depute shall, where the depute is acting for the officer, include a reference to the depute.
- (2) If the office of any of the officers mentioned in the preceding subsection is vacant or the holder of the office is for any reason unable to act and no depute has been appointed under the provisions of the preceding subsection or the depute so appointed is unable to act, the town council may, notwithstanding any law or practice to the contrary, appoint a person to act temporarily in that office for a period not exceeding six months with power to the council to renew the appointment for a further period not exceeding six months, and all things required or authorised by law to be done by or to any such officer may be done by or to the person appointed to act temporarily in the office of that officer, and any reference in this Act or any other enactment or any statutory order to such officer shall, where a person is acting temporarily in his office under this section, include a reference to the person so acting.
- (3) If the office of town clerk is vacant, or the town clerk is for any reason unable to act and no deputed other person to act temporarily in place of the town clerk has been appointed, or the depute or person so appointed is unable to act, any function of the town clerk relating to the issue of notices of meetings of the council or of committees thereof or the conduct of elections may be discharged by, and any intimations to the town clerk may be made to, the provost or acting chief magistrate. .
- (4) Any depute appointed by an officer under subsection (1) of this section may, notwithstanding that the officer appointing the depute has by reason of death, resignation or other cause ceased to hold office, exercise and discharge the powers and duties of the office until the town council otherwise determine.
- (5) A person shall not be appointed a depute medical officer of health or to act in place of a medical officer of health under this section unless he is a registered medical practitioner, nor shall a person be appointed to act in place of a medical officer of health for a longer period than six months except with the sanction of the Secretary of State.
- (6) A person acting under this section as depute or in place of an officer shall be deemed to be an officer of the town council, and the council may pay to the person so acting such reasonable remuneration as they may determine.
- (7) A person appointed as a depute under this section shall cease to hold office as depute if either the officer appointing the depute or the town council so determine, but if at the time of his appointment as depute he was an officer of the Council or if his duties when acting as depute involve whole-time service with the council he shall not, except where the council so determine, cease to be an officer of the council, and a person appointed to act in place of an officer under this section shall hold office during the pleasure of the town council.