



Local Government (Scotland) Act 1947

1947 CHAPTER 43

PART VI

CHANGE OF NAME OF AREAS, BOUNDARIES OF AREAS AND ALTERATION OF AREAS.

Alteration of Areas.

130 Alteration of boundaries of counties.

- (1) Any burgh which immediately before the commencement of this Act is situated in two or more counties shall be deemed to be situated wholly within that county in which is situated the part of the burgh having the greater or greatest rateable valuation, and the boundaries of the counties concerned shall be altered accordingly.
- (2) Where, after the commencement of this Act, the burgh boundary of a burgh is under this Part of this Act or by any other enactment altered to include within the burgh lands situated in a county other than the county in which the burgh is situated, any lands within that other county so included within the burgh shall be deemed to be situated wholly within the county in which the burgh prior to the alteration was situated, and the boundaries of the counties concerned shall be altered accordingly.
- (3) Where any new burgh formed under this Part of this Act or by any other enactment is situated in two or more counties, the burgh shall be deemed to be situated wholly within that county in which is situated the part of the burgh having the greater or greatest rateable valuation, and the boundaries of the counties concerned shall be altered accordingly.
- (4) Any question as to the county within which a burgh is by virtue of this section deemed to be situated shall be determined by the Secretary of State.
- (5) Save as otherwise provided in this Part of this Act, any alteration of boundaries by this section shall have effect for all purposes.

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131 Power of sheriff to alter burgh boundary.

- (1) On the application of the town council of a burgh, the sheriff shall have power to alter (including" power to extend or contract) the burgh boundary of the burgh:

Provided that an alteration of the burgh boundary of any burgh shall not encroach upon the boundary of any other burgh, unless the town council of the other burgh by resolution agree, which resolution shall not be deemed to be the resolution of the council of the other burgh unless passed by two-thirds of the members thereof present and voting at a meeting and confirmed by two-thirds of the members thereof present and voting at a subsequent meeting held not sooner than four weeks after the earlier meeting. The notice in the case of both meetings shall specify the consideration of the resolution or the purport thereof as an item of business, and a notice of the second meeting shall be published in a newspaper circulating in the burgh once in each of the weeks intervening between the two meetings.

- (2) The town council shall on making an application under this section cause notice thereof to be published in the Edinburgh Gazette and in a newspaper circulating in the burgh and in such other manner as the sheriff may direct.
- (3) Before altering the burgh boundary, the sheriff shall make such inquiry as he shall deem necessary and shall give all parties interested an opportunity of being heard, and where any area is proposed to be included within the burgh shall take into consideration all the circumstances of the case, including without prejudice to the said generality the number of dwelling-houses, whether existing or about to be erected within that area (with power to allow a reasonable margin for future extension), the density of the population of the burgh and of that area, and the persons for whom and the authority by whom the dwelling-houses within that area have been or are to be erected.
- (4) In the case of a burgh divided into wards, the application for the alteration of the burgh boundary shall set forth the proposals of the town council with respect to the alteration in the number or contents and boundaries of the wards in consequence of the alteration of the burgh boundary, and also, where it is proposed to alter the number of wards, the alteration in the number of councillors, and the sheriff shall, if the application for the alteration of the burgh boundary is granted, make such alteration in the number or contents and boundaries of the wards as seems proper to him in the circumstances and any alteration in the number of councillors consequential on the alteration in the number of the wards.
- (5) The sheriff shall in a deliverance under this section altering the number of councillors of a burgh secure that there shall be three or a multiple of three councillors for the burgh and for each ward and determine the manner in which and the date on which the alteration in the number of councillors is to be effected, and may in any deliverance under this section determine any question arising in connection with the alteration of wards or the number of councillors and do anything that appears to the sheriff to be necessary or proper for giving full effect to the deliverance.
- (6) The sheriff in a deliverance under this section altering the number or contents and boundaries of the wards of a burgh may, where he considers it proper in the special circumstances of the case notwithstanding anything in this Act, direct that all the councillors of the burgh including the provost and honorary treasurer shall retire at one time and a new council be elected.

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- (7) Where the town council of a large burgh in their application to the sheriff under this section for an alteration of the burgh boundary apply also for an alteration of the areas of the registration districts for the purposes of the Registration of Births, Deaths and Marriages Acts, being areas which would be affected by the alteration of the burgh boundary, the sheriff may in a deliverance under this section make such alteration of the areas of the registration districts as seems to him proper having regard to the alteration made in the burgh boundary, which alteration of registration districts shall be published in like manner as an alteration of registration districts under the said Acts.
- (8) A deliverance by the sheriff under this section shall, unless appealed against in manner provided in the immediately succeeding section, be final and be recorded along with the application on which it proceeds in the sheriff court books of the county, and come into force on the sixteenth day of May first occurring after the date on which it is recorded as aforesaid or, if the sheriff so directs, be deemed to have come into force on the sixteenth day of May last occurring before the date on which it is so recorded.
- (9) Where the burgh and any part of the lands which it is proposed to include within the burgh lie in more than one county, the application shall subject to the provisions of this Act be made to and disposed of by the sheriffs of all the counties concerned, and the sheriffs shall in determining the land to be included within the burgh have regard to the provisions of this Part of this Act relating to the alteration of boundaries of counties.
- (10) All expenses incurred by the sheriff in carrying out the provisions of this section shall be paid as part of the general expenses of the town council.
- (11) In this section and in the immediately succeeding section the expression "sheriff" does not include a sheriff substitute. j,

132 Appeal to Court of Session against alteration of burgh boundary.

- (1) An appeal may be submitted to the Court of Session against any deliverance by the sheriff under the immediately preceding section so far as the same alters the burgh boundary of a burgh, within twenty-one days after the date of the deliverance—
 - (a) by any person being the owner or occupier of lands which have been included within the burgh by any such deliverance; or
 - (b) in the case of the alteration of the boundary of a small burgh, by the county council of any county within which any such lands are situated;and on any such appeal the Court of Session may confirm or revoke or vary the deliverance by the sheriff so far as relating to the alteration of the burgh boundary.
- (2) Where the Court vary the burgh boundary as determined by the deliverance of the sheriff, they may, where the deliverance relates thereto, vary the deliverance so far as relating to the alteration in the number or contents and boundaries of wards or in the number of councillors, or remit to the sheriff to make such variation as seems proper to him in consequence of the decision of the Court with respect to the burgh boundary.
- (3) The decision of the Court of Session shall be final and shall be recorded in like manner as the deliverance by the sheriff appealed against and shall come into force on the sixteenth day of May first occurring after the date on which it is so recorded, or where a remit is made by the Court to the sheriff, after the date on which the deliverance by the sheriff under that remit is so recorded:

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Provided that the Court of Session or, where a remit is made to the sheriff, the sheriff may direct that the decision shall be deemed to have come into force on the sixteenth day of May last occurring before the day on which it is so recorded.

133 Formation of new small burgh.

- (1) Any twelve or more persons being local government electors for the area defined in the application, being a populous place within the meaning of this section, may present to the sheriff an application to fix the boundaries thereof and to declare the same to be a burgh, and every such application shall be signed by the persons presenting it.
- (2) The sheriff may require the persons presenting the application to find caution for payment of the expenses after-mentioned.
- (3) The sheriff shall hold a local inquiry and notice of the application and of the inquiry shall be given by advertisement for two consecutive weeks in the Edinburgh Gazette and in a newspaper circulating in the county in which the populous place is situated.
- (4) The inquiry shall be held not less than fourteen days after the notice of the application and of the inquiry has first been published.
- (5) The sheriff shall appoint a person to ascertain and report to him the population and the amount of the rateable valuation of the populous place.
- (6) At the inquiry all parties interested, including the county council of the county and the district council of the district in which the populous place is situated and the town council of any contiguous or closely adjacent burgh, shall be given an opportunity of being heard.
- (7) The sheriff shall, if he is satisfied that the populous place or part thereof is suitable for being formed into a burgh, issue a deliverance (in this section referred to as a "preliminary deliverance") fixing the boundaries of the area suitable for being formed into a burgh.
- (8) The sheriff in determining whether an area is suitable for being formed into a burgh shall have regard to all the circumstances of the case, including without prejudice to the said generality the number of dwelling-houses in the area, the density of its population and its rateable valuation, and in fixing the boundaries of the area shall have regard to the provisions of this Part of this Act relating to the alteration of boundaries of counties and shall include within the area the whole area which in his opinion properly belongs to and forms part of the same town with such reasonable margin for extension as he thinks fit, but the boundary so fixed shall not encroach on the boundary of any other burgh.
- (9) The sheriff shall refuse the application if he is of opinion that no part of the area defined in the application is suitable for being formed into a burgh.
- (10) The sheriff shall as soon as may be after he has issued a preliminary deliverance under this section direct that a meeting be convened of the local government electors for the area as defined in that deliverance for the purpose of considering whether the area should be formed into a burgh.
- (11) The said meeting shall be held at such place and at such time as the sheriff shall direct, and the meeting and the purpose thereof shall be advertised in a newspaper circulating in the area and published in such other manner, if any, as the sheriff may direct. The

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sheriff or such person as he may appoint shall preside at the meeting and shall appoint a clerk who shall take a minute of the proceedings.

- (12) It shall be the duty of the registration officer for the registration area under the Representation of the People Acts in which the area defined in the preliminary deliverance is situated within fourteen days after receiving a demand to furnish to the sheriff a certified copy of the names and addresses of all local government electors for the area as defined in the preliminary deliverance on payment of a fee of not more than one shilling for each hundred names, and such list shall be sufficient proof of the qualifications Of the persons named therein.
- (13) The said meeting may determine whether the said area shall be a burgh, or may appoint a committee of those qualified to vote, not exceeding nine, to inquire and report to a future meeting to be held on such date as shall be appointed by the person presiding, and such future meeting shall, on the report of the committee, determine whether the area shall be a burgh.
- (14) The person presiding shall ascertain the determination of the meeting by a show of hands or in such other manner as shall appear to him expedient, and in case of an equality of votes shall give a casting vote, and the determination of the meeting shall be final unless a poll is demanded in writing by any twelve persons qualified to vote present at the meeting.
- (15) In the event of a poll being demanded, the poll of the local government electors for the said area shall be taken within twenty-eight days of the demand in accordance with regulations made by the Secretary of State. The Secretary of State in making such regulations shall have regard to the provisions of Part III of the Second Schedule to this Act and may prescribe forms for voting papers, notices and other documents.
- (16) If any such meeting as aforesaid determine that the said area shall be a burgh or if, in the event of a poll being taken, a majority of the persons qualified and voting vote in favour of the area being declared to be a burgh, the sheriff shall issue a deliverance finding and declaring the area to be a burgh, and from the date on which the deliverance comes into force the area shall be a small burgh for the purposes of this Act and any other public general Act, and the sheriff shall in the said deliverance determine the number of councillors and magistrates to be elected for the burgh, having regard to the number of councillors and magistrates in burghs having approximately the same population, and, where he is of opinion that the burgh should be divided into wards, divide the burgh into wards and define the contents and boundaries thereof and apportion the councillors among the wards:

Provided that there shall be three or a multiple of three councillors for the burgh and for each ward.

Such a finding and declaration by the sheriff under this subsection shall come into force on the sixteenth day of May first occurring after its date or, if the sheriff thinks it proper having regard to the circumstances of the case and in the deliverance so directs, shall be deemed to have come into force on the sixteenth day of May last occurring before its date.

- (17) If as a result of the meeting or the poll ho deliverance declaring the area to be a burgh falls to be issued, the sheriff shall refuse the application.
- (18) The expenses incurred in connection with any application under this section (including without prejudice to the said generality the expenses of and in connection with the inquiry and the publication thereof, the meeting of, and the taking of a poll of, the local

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government electors) shall, subject to such audit as the sheriff may direct, be paid, if the area described in the application or any part thereof is declared to be a burgh, as part of the general expenses of the town council of the burgh, and if no part of that area is declared to be a burgh, by the persons presenting the application.

- (19) Where an application under this section has been refused, it shall not be competent for such an application to be made in respect of the area described in the application or any part thereof until after the lapse of two years from the date of such refusal, and, where part only of the area described in the application has been declared to be a burgh, it shall not be competent for an application to be made under this Part of this Act for the inclusion of any other part of that area within the burgh until after the lapse of two years from the date of the order declaring part of the area to be a burgh.
- (20) As soon as may be after a deliverance under this section comes into force declaring a populous place or part thereof to be a burgh, an election of town councillors thereof shall be held, and for that purpose the provisions of this Act relating to the election of town councillors shall apply subject to the following and any other necessary modifications:—
- (a) the returning officer shall be the sheriff or such person as he may appoint, and the day of election shall be such day as the returning officer shall appoint;
 - (b) anything required to be done to or by or before the town clerk shall be done to or by or before the returning officer or such person as he shall appoint for the purpose;
 - (c) for the dates set out in Part II of the Second Schedule to this Act there shall be substituted such dates as the returning officer shall appoint;
 - (d) for the references to persons registered under the Representation of the People Acts as local government electors for the burgh and to persons who have resided within the burgh, there shall be substituted respectively references to persons registered under the Representation of the People Acts as local government electors for the area as defined in the preliminary deliverance and to persons who have resided within such area.
- (21) For the purposes of this section the expression " populous place " means any town, village, place or locality (not being a burgh) or any two or more contiguous towns, villages, places or localities (not being burghs) containing according to the last published census for the time being a population of two thousand inhabitants or upwards, and the expression " sheriff " does not include a sheriff substitute and means the sheriff of the county in which the area described in the application is situated or, where the area as so described is situated in two or more counties having different sheriffs, such one of the sheriffs as the Secretary of State may appoint.

134 Dissolution of small burgh.

- (1) Subject to the provisions of this section, a small burgh may be dissolved and the area thereof form part of the landward area of the county.
- (2) The town council of a small burgh and the county council of the county in which the burgh is situated may enter into an agreement that the burgh shall be dissolved and the area thereof form part of the landward area of the county, and where such an agreement has been made the councils may present a petition for confirmation of the agreement in the case of a royal burgh to His Majesty, and in the case of any other burgh to the Secretary of State, and His Majesty may by Order in Council in the case of a royal burgh, and the Secretary of State may by order in the case of any other

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burgh, confirm the agreement, and from the date on which the confirming order takes effect, the burgh shall be dissolved and the area thereof shall form part of the landward area of the county.

- (3) A town council shall not enter into any such agreement unless—
- (a) a resolution that the burgh be dissolved and the area thereof form part of the landward area of the county has been considered at a meeting of the council the notice of which has specified the consideration of the dissolution of the burgh as an item of business and has been passed by a majority consisting of not less than two-thirds of the whole number of members of the council present and voting at the meeting;
 - (b) a notice containing a copy of the resolution as passed and stating that a poll will be taken of the local government electors for the burgh on the question whether the resolution be approved has been published for two consecutive weeks in the Edinburgh Gazette and in a newspaper circulating in the burgh and in the county; and
 - (c) a poll of the local government electors for the burgh has been taken in accordance with regulations made by the Secretary of State on the question whether the resolution as passed be approved, and the resolution has been approved by a majority of the electors voting,
- (4) A county council may enter into any such agreement if a resolution that the burgh be dissolved and the area thereof form part of the landward area of the county has been passed by a majority of the council present and voting at a meeting, the notice of which specifies the resolution or the purport, thereof as an item of business.
- (5) An agreement under this section shall make provision with respect to the property and liabilities of the burgh, including any relating to the common good of the burgh or to any trust under a deed of trust or other document administered by the town council or by members thereof as such, and may provide for levying for a limited period not exceeding ten years different rates in the area of the burgh from those levied in other parts of the landward area of the county.
- (6) Before presenting a petition for confirmation of an agreement under this section to His Majesty or to the Secretary of State, the town council and county council shall cause to be published in the Edinburgh Gazette and in a newspaper circulating in the burgh and in the county a notice setting forth the main purport of the agreement or stating a place within the burgh at which and the period during which a copy of the agreement may be inspected, and stating that the agreement requires confirmation by His Majesty or the Secretary of State, as the case may be, and that any person having any objection to the agreement may within fourteen days of the publication of the notice send to the Secretary of State a statement in writing setting forth the grounds of his objection.
- (7) Before any Order in Council or other order is made under this section, the Secretary of State may direct a local inquiry to be held.
- (8) An Order in Council or other order under this section may confirm any such agreement with or without modifications and may alter the number of county councillors for the county and provide—
- (a) for making any consequential alteration in the number, contents and boundaries of electoral divisions of the county and for the election or appointment of county councillors for electoral divisions affected by such alteration;

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- (b) for making any consequential alteration in the number, contents and boundaries of districts of the county for the purposes of district councils and for the election or appointment of district councillors for the districts affected by such alteration; and
- (c) for doing anything that appears necessary or proper for the purpose of carrying into effect the dissolution of the burgh and the incorporation of the area thereof within the landward area of the county:

Provided that—

- (i) nothing herein contained shall authorise any alteration of the purposes of any such trust as aforesaid; and
 - (ii) the county councillors and the district councillors elected or appointed as aforesaid shall hold office only until the expiration of the term of office of the county councillors elected for the other electoral divisions of the county and the elected district councillors for the other districts of the county.
- (9) Without prejudice to the provisions of the immediately preceding subsection, an Order in Council or other order confirming any such agreement may provide that until an alteration is made in accordance with the provisions of this Act the area of the burgh shall form one or more electoral divisions and also form a district for district council purposes, and that, until the first election of elected district councillors, the members of the town council of the burgh holding office immediately prior to the dissolution taking effect shall constitute the district council of the district, and such members of the district council as may be elected by the district council shall be the county councillors representing the electoral divisions within the district.
- (10) An Order in Council or other order confirming an agreement under this section shall come into force on the sixteenth day of May first occurring after the date of the order or, if the Order in Council or other order so directs, shall be deemed to have come into force on the sixteenth day of May last occurring before its date.
- (11) An Order in Council or other order confirming an agreement under this section shall be laid before each House of Parliament as soon as may be after it is made.

135 Power of Secretary of State to alter parish boundary or name of parish.

- (1) Without prejudice to any other enactment relating to the union, disjunction or erection of parishes, the Secretary of State, on the representation of a county council or a town council, may by order provide—
- (a) for altering the boundary of a parish situated wholly or partly within the county or burgh; or
 - (b) for uniting several such parishes or parts of such parishes into one parish or annexing such a parish or part of such a parish to another parish; or
 - (c) for dividing any such parish and if it is considered expedient uniting all or any of such subdivisions with other parishes; or
 - (d) for altering the name of any such parish.
- (2) The provisions of subsections (4) and (5) of section one hundred and twenty-seven of this Act shall subject to the necessary modifications apply with respect to a representation under this section in like manner as they apply with respect to the submission to the Secretary of State for his approval of a resolution to change the name of a county or burgh.

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- (3) An order under this section shall not affect any rights or obligations in relation to teinds nor have effect for ecclesiastical purposes, but save as otherwise provided in this Part of this Act shall have effect for all other purposes.

136 Rectification of boundary.

- (1) The Secretary of State or the sheriff may, on application by any local authority concerned, rectify any accidental error that has been made in any order by the Secretary of State or any deliverance by the sheriff, as the case may be, under this Part of this Act in fixing the boundaries of an area that has been formed into a burgh, or altering the boundary of a county or a burgh or a parish.
- (2) Any deliverance by the sheriff under this section shall be final.
- (3) The boundary as so rectified shall as regards all future acts, payments and liabilities be held to be the boundary originally fixed by the Secretary of State or the sheriff, as the case may be, but any acts done or payments made or liabilities incurred prior to the rectification shall be no wise affected thereby, and the same, in so far as done or made or incurred in good faith, shall notwithstanding such error be as valid, final, and free from challenge as if the error had not been made.

137 Alteration of districts and district boundaries.

Districts within a county for the purposes of district councils and the boundaries of such districts within a county may be altered by a district council scheme made by the county council of the county and approved by the Secretary of State under Part I of this Act.