



# Local Government (Scotland) Act 1947

## 1947 CHAPTER 43

### PART VI

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

##### *Supplemental Provisions.*

#### **138 General provisions as to change of name and alteration of areas.**

- (1) An application or representation under this Part of this Act for the alteration of the boundary of any burgh or parish, or for the formation of a new burgh, and any order or deliverance under this Part of this Act altering any such boundary or fixing the boundaries of an area that may be declared to be a burgh, shall describe the boundary as proposed to be altered or the boundary or boundaries as fixed, as the case may be, by reference to a map which shall be on a scale to be prescribed by the Secretary of State, and, if there is any discrepancy between the area delineated on the map and the description in the order or deliverance, the area delineated on the map shall be deemed to be correct and shall prevail.
- (2) Any change of name of a county or burgh or parish, or any alteration of the boundary of a county or burgh or parish, or deliverance declaring an area to be a burgh, or any dissolution of a burgh under this Part of this Act, shall be published in such manner and intimated in such manner and to such persons as the Secretary of State may prescribe, and where the deliverance or order altering any such boundary or declaring a populous place to be a burgh refers to a map, such intimation shall be accompanied, in such cases as may be prescribed, by a copy of the map certified in such manner as the Secretary of State may prescribe, and in other cases either by such a certified copy or by a statement where the map or such a certified copy thereof may be inspected free of charge.

#### **139 Presumption of compliance with statutory provisions.**

All statutory requirements and provisions applicable to any proceedings relating to a change of name or an alteration of area under this Part of this Act or to corresponding proceedings under any Act repealed by this Act shall be deemed to have been duly

---

*Status: This is the original version (as it was originally enacted). This item of legislation is currently only available in its original format.*

---

complied with unless the proceedings are challenged in a competent court within twelve months from the date of the order or deliverance confirming the change of name or making or confirming the alteration of area:

Provided that a deliverance under any Act repealed by this Act altering the boundaries of a burgh or fixing the boundaries of a place formed into a burgh may be challenged at any time within twelve months after the commencement of this Act, not being more than three years from the date of the alleged failure to comply with the requirements or provisions applicable in the case.

#### **140 Transfer of functions.**

- (1) Where under, or in pursuance of this Part of this Act the boundary of any county or burgh or district is altered and lands (in this Part of this Act referred to as the " added area " ) which were not previously included therein are so included, the council of the county, burgh or district to which the area is added shall, subject to the provisions of this section, exercise within the added area the same functions as they exercised within the county or burgh or district prior to the alteration of boundary, and for that purpose the corresponding functions of any other local authority so far as relating to the added area shall be deemed to have been transferred to the county council, town council or district council, as the case may be, and in the case of the alteration of the boundary of a large burgh, the added area shall, as from the date on which the alteration takes effect, be deemed, for the purpose of ascertaining the settlement or status of irremovability " of a person under the Poor Law Acts, to have always formed part of the burgh, except in the case of a person who had at the said date such a settlement or status within the county by reason of residence partly within the added area and partly within another part of the county, and in that case the person shall, as from the said date, be deemed to have such a settlement or status within the burgh or within the county according as his place of residence at the time of acquiring the settlement or status was within the added area or within another part of the county.
- (2) On the formation of a burgh under this Part of this Act, the town council thereof shall, subject to the provisions of this section, exercise all the functions of the town council of a small burgh therein, and for that purpose the functions of the county council and of the district council concerned, so far as corresponding with the functions of the town council of a small burgh and so far as relating to the area within the burgh boundary, shall be deemed to have been transferred .to the town council.
- (3) On the dissolution of a burgh under this Part of this Act, the county council and the district council shall, subject to the provisions of this section, respectively exercise within the area which was previously within the burgh boundary of the burgh the same functions as they exercise within other parts of the landward area, and the functions of the town council of the said burgh shall, so far as they correspond with functions of the county council, be deemed to have been transferred to the county council, and, so far as the said functions correspond with functions of the district council, be deemed to have been transferred to the district council.
- (4) In this section a reference to the town council of a burgh shall be deemed to include a reference to the magistrates of the burgh or the dean of guild court, the licensing court, or other authority within the burgh, where there is such a court or other authority, as regards their respective functions, and a reference to a county council shall be deemed to include a reference to the licensing court or other authority within the county as regards their respective functions, but nothing in this subsection shall be deemed to authorise the establishment of a licensing court or other authority.

---

*Status: This is the original version (as it was originally enacted). This item of legislation is currently only available in its original format.*

---

- (5) Nothing in the foregoing provisions of this section shall be deemed to affect the provisions of any local Act, but, except in any case to which the immediately succeeding subsection applies, the Secretary of State, on the joint application of any local authority concerned and of the authority, if any, under the local Act and after consultation with any other local authority or authority or body concerned and after such local inquiry, if any, as he considers necessary, may by order alter the area to which any service provided under the local Act applies or make such modifications or adaptations in the provisions of the local Act as seem to him proper in the circumstances, and any such order may make provision with regard to the transfer of functions and of property and liabilities and the terms and conditions on which such transfer shall take effect.
- (6) Nothing in the foregoing provisions of this section shall be deemed to affect the functions of a local authority relating to any public utility undertaking (other than a water undertaking) but, without prejudice to any power conferred by any other enactment, the Minister concerned with the undertaking, on the joint application of any local authority concerned and of the authority carrying on the public utility undertaking and after consultation with any other local authority or authority or body concerned and after such local inquiry, if any, as he considers necessary, may by order alter the area to which the undertaking relates or make such modifications or adaptations in the provisions of any local Act or statutory order relating to the undertaking as seem to him proper in the circumstances, and any such order may make provision with regard to the transfer of functions and of property and liabilities and the terms and conditions on which such transfer shall take effect.

#### **141 Adjustment of property and liabilities.**

- (1) Where any alteration of area has been made or is proposed to be made under this Part of this Act or under any enactment repealed by this Act, the local authorities concerned and any other public bodies concerned may make an agreement for the purpose of adjusting any property, income, debts, liabilities and expenses of the parties to the agreement (so far as affected by the alteration of area) and any financial relations between them, and with respect to any other matter or thing which may be required for the proper carrying into effect of the alteration and the settlement of difficulties arising therefrom.
- (2) The agreement may provide for the transfer or retention of any property, debts or liabilities with or without conditions, for the joint use of any property and for payment by either party to the agreement in respect of property, debts and liabilities so transferred or retained or of such joint use, and in respect of the remuneration or compensation payable to any officer or person and that by way of a capital sum or of an annual payment for a period of years.
- (3) In default of agreement as to any matter requiring adjustment, such adjustment may, at any time within two years from the date on which the alteration of area takes effect and whether the alteration was made by order of the Secretary of State or by deliverance of the sheriff or otherwise under this Part of this Act, be referred to the Secretary of State or to an arbiter appointed by the Secretary of State, and the decision of the Secretary of State or the arbiter, as the case may be, shall be final.
- (4) Any sum required to be paid for the purposes of any adjustment under this section shall be defrayed by a local authority or any other public body in such manner as may be specified in the agreement or decision and, failing the agreement or decision

---

*Status: This is the original version (as it was originally enacted). This item of legislation is currently only available in its original format.*

---

so specifying, in such manner as the local authority or other public body making the payment may determine.

- (5) Any capital sum received by a local authority in respect of an adjustment under this section shall be treated as capital and shall be applied with the sanction of the Secretary of State in the repayment of capital debt or for any other purpose for which capital money may be applied.

#### **142 Adjustment in respect of increase of burden on ratepayers.**

- (1) On any adjustment under the immediately preceding section and on any adjustment in connection with any alteration of area under any enactment passed after the commencement of this Act except where that enactment otherwise provides, provision shall, unless the local authorities concerned otherwise agree, be made for the payment to any local authority of such sum as seems equitable in accordance with the provisions of the immediately succeeding subsection in respect of any increase of burden which will properly be thrown on the ratepayers of that authority as a consequence of any alteration of boundary.
- (2) In determining the sum to be paid in pursuance of this section, regard shall be had to—
- (a) the difference if any between the burden on the ratepayers which will properly be incurred by the local authority of an area in respect of which an alteration of boundary has taken place in meeting the cost of executing any of their functions and the burden on the ratepayers which would properly have been incurred by the authority in meeting such cost had no alteration of boundary taken place; but the loss of rateable area as such shall not of itself be held to be an increase of burden; and
  - (b) the length of time during which any increase of burden may be expected to continue.
- (3) The sum payable to any local authority in respect of any increase of burden shall not exceed, or, if payable by instalments or by way of annuity, the capitalised value of the instalments or annuity shall not exceed, the average annual increase of burden multiplied by fifteen.
- (4) This section shall also apply to any adjustment outstanding at the commencement of this Act consequent upon an alteration of boundary effected after the twenty-eighth day of August nineteen hundred and fourteen made (otherwise than by agreement) under section fifty or section fifty-one of the Local Government (Scotland) Act, 1889, or section forty-six of the Local Government (Scotland) Act, 1894, whether as originally enacted or as applied by any other enactment.

#### **143 Funds held in trust for whole area to apply to area after alteration.**

- (1) Any funds held in trust by a local authority or by any members of the authority for the benefit of the whole area of the authority or the inhabitants thereof (including, in the case of a burgh, the common good thereof), unless the trust deed or other document regulating the purposes of the trust otherwise specifically provides, shall—
- (a) on an alteration of boundary by the inclusion of an added area under this Part of this Act, apply to the whole area of the authority including the added area in like manner as they applied to the area of the authority before the alteration of boundary; and

---

*Status: This is the original version (as it was originally enacted). This item of legislation is currently only available in its original format.*

---

- (b) on an alteration of a boundary involving an area ceasing to be part of the area of a local authority under this Part of this Act, extend only to the area of the authority remaining after the alteration has been given effect to.

(2) Nothing in this section shall apply to any educational endowment.

**144 Power of Secretary of State to make orders to carry alteration of area into effect.**

The Secretary of State, for the purpose of giving effect to any alteration of area under this Part of this Act so far as specific provision on any matter is not contained in this Part of this Act, may make an order with respect to—

- (a) the jurisdiction of any authority over any part of the area affected by the alteration, the functions of any such authority and the officers thereof, the property and liabilities of such authorities and the settlement of differences between such authorities;
- (b) any matter which appears to him necessary or proper to be dealt with:

Provided that an order with respect to any matter mentioned in paragraph (a) hereof shall be made only after consultation with any authorities concerned.

For the purposes of this section the expression " authority " includes any court or body or the holder of any public office.

**145 Savings.**

Save as otherwise expressly provided, nothing in the provisions of this Part of this Act relating to alteration of areas shall affect, nor shall anything done thereunder affect—

- (a) the limits of any parliamentary county or parliamentary borough or any division of any such county or borough; or
- (b) the area of the registration district for which a registrar is required to be appointed under the Registration of Births, Deaths and Marriages Acts or the provisions of those Acts relating to registration districts; or
- (c) the operation of the provisions of the Temperance (Scotland) Act, 1913, as respects any area to which there applies a resolution under that Act passed before the alteration of area under this Part of this Act takes effect.