



# Local Government (Scotland) Act 1947

## 1947 CHAPTER 43

### PART VII

#### SPECIAL DISTRICTS.

#### **146 Special districts.**

- (1) Subject to the provisions of this Part of this Act, a part of the landward area of a county may be formed into a district (in this Act referred to as a "special district") for the purpose of providing or maintaining within the district all or any of the following services:—
- (a) water supply;
  - (b) sewerage and sewage disposal;
  - (c) lighting;
  - (d) scavenging and removal of dust, ashes and other refuse from streets, roads, footpaths, lands and premises ;
  - (e) public baths (other than swimming baths) or wash-houses or drying grounds.

Any reference in this Act or any other enactment or any statutory order to a special drainage district shall be construed as a reference to a special district formed for the purpose of sewerage and sewage disposal or any part of that service.

- (2) The special districts existing at the commencement of this Act shall continue as if formed under this Act.

#### **147 Procedure for formation, alteration, combination or dissolution of special districts....**

- (1) A county council at any time after giving such notice of the proposal as is provided in this section may, and upon receiving a requisition in writing from any one or more district councils whose districts are wholly or partly within the area to which the requisition relates or from any, ten or more local government electors for the said area and after giving such notice of the requisition as is provided in this section shall, consider the propriety of passing a resolution to form a special district under this Part

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of this Act, or to alter (by extending or contracting) the boundaries of any special district, or to combine two or more special districts or parts thereof, or to dissolve any special district.

- (2) The county council shall cause notice of the proposal or requisition, of the place within the county at which and the period during which the full terms of the proposal or requisition may be inspected, and of the date of the meeting at which it will be considered by the council, to be published in a newspaper circulating in the county and in the Edinburgh Gazette at least twenty-one days before the date of the meeting of the council, and shall not less than fourteen days before the date of the meeting transmit to the Secretary of State a copy of the notice as published.
- (3) The resolution of the county council disposing of the proposal or requisition shall, where necessary, define the boundaries of the special district, and determine all questions regarding the payment of any debt affecting the special district and the right to impose and the obligation to pay any rate affected by the determination and any other matters necessary or proper for carrying the resolution into effect, and shall fix the date at which any such determination shall take effect.

Without prejudice to the foregoing provisions of this subsection, a resolution of a county council altering the boundaries of a special district or combining two or more special districts or parts thereof or dissolving a special district may, if the council consider the circumstances of the case so require, make provision for payment during such period not exceeding ten years as the council may determine, in the case of any such alteration or combination, of rates of different amounts per pound within the areas affected by the alteration or combination or, in the case of any such dissolution, of rates of different amounts per pound within the area which formed the special district from the amount of the rates payable within the rest of the landward area of the county.

- (4) Where a county council has upon consideration of a requisition resolved not to form a special district or to alter, combine or dissolve a special district as specified in the requisition, it shall not be competent for any district council or local government electors to make another requisition to the same effect until after the expiration of two years from the date of the requisition.
- (5) The county council shall as soon as practicable cause notice of the resolution of the council and of the place within the county at which and the period during which the full terms of the resolution and, if appropriate, a map or plan showing the boundaries of the new or altered special district or districts may be inspected to be published in a newspaper circulating in the county and in the Edinburgh Gazette, and shall within ten days of the date of the meeting at which the resolution was disposed of transmit a copy of the resolution to the Secretary of State.
- (6) Any person aggrieved may, within twenty-one days after the date of the publication of the notice of the resolution in a newspaper circulating in the district or the date of the publication in the Edinburgh Gazette, whichever is the later, appeal against the resolution to the sheriff, and the sheriff (not being a sheriff substitute resident in the district or the proposed district) may either approve or disapprove of the resolution or may approve subject to such alteration of boundaries or otherwise as he may determine.

The town council of a burgh may appeal under this subsection to the sheriff, if that council before the expiration of the time within which an appeal against the resolution is competent have presented a petition to the sheriff under Part VI of this Act or promoted private legislation within the meaning of Part XV of this Act to extend the

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boundaries of the burgh to include the whole or any part of the area proposed to be formed into or included within the special district.

- (7) The deliverance of the sheriff shall, where necessary, define the boundaries of the special district and determine all questions regarding the payment of any debt affecting the special district and the right to impose and the obligation to pay any rate affected by the determination and any other matters necessary or proper for carrying the order into effect, and shall fix the date at which any such determination shall take effect.
- (8) The sheriff may find any of the parties to an appeal under this section liable in expenses to the other party or parties.
- (9) The county council shall as soon as practicable cause a notice of the deliverance of the sheriff, and of the place within the county at which and the period during which the full terms of the deliverance and, if appropriate, a plan or map showing the boundaries of the new or altered special district may be inspected, to be published in a newspaper circulating in the county and in the Edinburgh Gazette, and shall within ten days of the date of the deliverance transmit a copy thereof to the Secretary of State.
- (10) Subject to the foregoing provisions, any expenses incurred by the county council in connection with the formation or alteration of boundaries of a special district or the combination of special districts into a special district shall be paid out of the rate leviable within the special district for the purposes thereof, and any expenses incurred by the county council in connection with the dissolution of any special district or in any case where a special district is not formed shall be defrayed as part of the expenses of the council under the Public Health Acts relating exclusively- to the whole of the landward area of the county.

#### **148 Management of special districts.**

A county council may in accordance with the provisions of section one hundred and twenty-three of this Act appoint a district council to act as agents of the county council for carrying out all or any of the purposes for which a special district is formed or may appoint a local committee for carrying out all or any of the purposes for which a special district is formed, which local committee shall consist in whole or in part of district councillors for the district or districts in which the special district is situated, whether members of the county council or not.

#### **149 Power to apply burgh statutory provisions.**

- (1) A county council may by resolution adopt, subject to any necessary modifications and to any other modifications that may be approved by the Secretary of State, such provisions (including provisions relating to byelaws and penalties for non-compliance therewith) contained in the Burgh Police Acts and in any other public general Act relating to any of the purposes for which a special district is formed and which apply or may by adoption be made to apply to a burgh as the council with the sanction of the Secretary of State may determine, and as from a date to be fixed by the council the provisions as so adopted shall have effect within and in relation to the special district.
- (2) Without prejudice to the provisions of the preceding subsection, a county council may by resolution adopt within any special district formed for any of the purposes specified in paragraphs (a), (b), (c) and (d) of subsection (1) of section one hundred and forty-six of this Act, subject to any necessary modifications and to any other modifications that may be approved by the Secretary of State, the provisions of sections one hundred and

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forty-four, one hundred and forty-five, one hundred and fifty-eight and one hundred and ninety-one to two hundred of the Burgh Police (Scotland) Act, 1892, or any one or more of the said sections, and as from a date to be fixed by the council the provisions as so adopted shall have effect within and in relation to the special district.

- (3) The provisions of any Act adopted under any enactment repealed by this Act and applying to a special district immediately prior to the commencement of this Act shall continue to apply to that district as if adopted under this section.
- (4) Any adoption by a county council of enactments under this section (including any such adoption prior to the commencement of this Act to which the immediately preceding subsection applies) may be altered or revoked by the county council with the approval of the Secretary of State.

#### **150 Inclusion of whole or part of special district within a burgh.**

- (1) A special district shall be dissolved on the district being wholly included within the boundaries of a burgh under this Act or by virtue of any other enactment, and where a part only of a special district is so included within the boundaries of a burgh, the part so included shall cease to form part of the special district.
- (2) Where part of a special district is so included within the boundaries of a burgh, arrangements shall be made by the county council and town council concerned and, failing agreement between the councils, by the Secretary of State, with respect to the provision of the service for which the special district was formed within the whole area which prior, to the inclusion of part thereof within the burgh comprised the special district, the apportionment- and payment so far as necessary of the expenses thereof, the adjustment between the councils concerned of the property and liabilities relating to the said special district, and the management of the special district so far as remaining.

#### **151 Combination of special water and drainage districts when required by Secretary of State.**

- (1) A county council shall, if so required by the Secretary of State, combine two or more special water supply districts or two or more special drainage districts within the county, and in connection with such combination provision may be made—
  - (a) for payment during such period not exceeding ten years as the council may determine of special district rates of different amounts per pound within the several districts forming the combined district; and
  - (b) with respect to such other matters as may be considered necessary or proper for carrying the combination into effect.
- (2) The resolution of the county council combining the districts shall determine all matters relating to the combination and shall fix the date at which the combination shall take effect.
- (3) The county council shall as soon as practicable cause notice of the resolution of the council combining the special districts, and of the place within the county at which and the period during which the full terms of the resolution may be inspected, to be published in a newspaper circulating in the county and in the Edinburgh Gazette, and shall within ten days of the date of the meeting at which the resolution was passed transmit a copy of the resolution to the Secretary of State.

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- (4) Any person aggrieved by any determination of the county council contained in a resolution under this section may, within twenty-one days after the date of the publication of notice of the resolution in a newspaper circulating in the district or the date of the publication in the Edinburgh Gazette, whichever is the later, appeal against the determination to the Secretary of State, who may approve or disapprove of such determination or may approve the same subject to such alteration as may appear proper to him, and the decision of the Secretary of State shall be final.

## **152 Schemes for dissolution of special water and drainage districts.**

- (1) A county council may, whenever they think it desirable, and shall, if so required by the Secretary of State and within such period not being less than twelve months as he may specify, prepare and submit to the Secretary of State for approval a scheme providing for the dissolution of all the special water supply districts or all the special drainage districts within the county, and such scheme may make provision—
- (a) for different dates for the dissolution of different special districts;
  - (b) with respect to the property and liabilities relating to the special districts so dissolved;
  - (c) for payment, during such period not exceeding ten years as the scheme may provide, of rates of different amounts per pound within the areas which formed the special districts so dissolved or any of them from the amount of the rates payable within the rest of the landward area of the county;
  - (d) for the protection of the interests of officers employed for the purposes of the special districts so dissolved, by applying such of the provisions of Part XVII of this Act as are considered necessary or proper; and
  - (e) with respect to such other matters as may be considered necessary or proper for winding up the special districts.

The Secretary of State before requiring a county council to prepare and submit a scheme under this subsection may cause a local inquiry to be held.

- (2) Before making any such scheme, the county council shall publish in a newspaper circulating in the county and in the Edinburgh Gazette a notice stating their intention to make such a scheme, that a copy of the draft scheme is open to inspection at a specified place and during a specified period within the county and that representations thereon in writing may be made to the council within twenty-eight days after the date of the publication of the notice in the said newspaper or the date of the publication in the Edinburgh Gazette, whichever is the later, and shall consider any representations in writing which may be submitted to them within that period.
- (3) The county council shall send to the Secretary of State when submitting the scheme for approval the representations received by them on the draft scheme, and the Secretary of State may before approving a scheme cause a local inquiry to be held.
- (4) The Secretary of State may approve the scheme either as submitted or with such modifications and amendments as he thinks proper, and upon approval of the scheme the county council shall as soon as practicable take all steps necessary to carry the scheme as approved into effect.
- (5) If a county council fail to submit to the Secretary of State by the date specified in the notice by the Secretary of State under subsection (1) of this section a scheme in accordance with the provisions of this section, which he is prepared to approve, the Secretary of State may himself after such consultation as he considers necessary make

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a scheme for the purpose, but before making such a scheme he shall publish in a newspaper circulating in the county and in the Edinburgh Gazette a notice stating his intention to make such a scheme, that a copy of the draft scheme is open to inspection at a specified place and during a specified period and that representations thereon in writing may be made to him within twenty-eight days after the publication of the notice in the said newspaper or in the Edinburgh Gazette, whichever is the later, and he shall consider any representations in writing which may be submitted to him within that period, and any scheme so made shall have effect as if it were a scheme made by the county council and approved by the Secretary of State; and the county council shall as soon as practicable, take all steps necessary to carry the scheme into effect.

- (6) Any scheme made under this section may be altered at any time before it has been fully carried into effect by a supplementary scheme made by the county council and approved by the Secretary of State, and the provisions of this section with respect to the original scheme shall subject to the necessary modifications apply to any such supplementary scheme.
- (7) A county council in making, and the Secretary of State in making or approving, a scheme under this section, shall have regard to the desirability of securing that the service for which the special districts were formed is made available as far as reasonably practicable throughout the landward area of the county.

### **153 Expenses of special districts.**

- (1) Subject to the provisions of the immediately succeeding section, all expenses incurred in carrying out the purposes for which a special district has been formed shall be defrayed out of a special district rate to be levied annually on all lands and heritages within the special district in accordance with the provisions of Part XI of this Act.
- (2) Subject to the provisions of the immediately succeeding section, where a special district is formed, no part of the expenses incurred in providing in any other part of the county the service for which the special district is formed shall be included in the expenses defrayed out of any rate so far as leviable within the special district.

### **154 Contributions by county council to expenses of special districts.**

- (1) A county council may, where it appears to the council that the financial burden imposed or likely to be imposed upon a special district within the county is more than it can reasonably be expected to bear unaided, agree to make a contribution towards the expenses of the special district of such sum as appears to the council to be equitable, and such contribution shall, be defrayed as if it were expenditure incurred by the council under the Public Health Acts in relation to the whole of the landward area of the county.

The county council in determining whether any contribution should be made in the case of any special district and the amount, if, any, of the contribution, shall have regard to the total amount per pound of the rates levied in the different parts of the landward area of the county.

- (2) A county council may pay or contribute towards the expenses of cleansing and scavenging the highways and footpaths under their management and control within a special scavenging district and charge such payment or contribution as expenses under the Roads and Bridges Acts.

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## **155 Savings.**

Nothing in this Part of this Act shall affect the provisions of the Orkney and Zetland Small Piers and Harbours Act, 1896, or the Harbours Piers and Ferries (Scotland) Act, 1937, relating to the formation of special districts for any of the purposes specified in the said Acts or any special district formed for any such purpose.