



Local Government (Scotland) Act 1947

1947 CHAPTER 43

PART XII

BORROWING BY LOCAL AUTHORITIES.

General Provisions as to Securities.

280 Security to be moveable estate and notice of trusts.

- (1) Every security created by a local authority shall be moveable or personal estate and shall on the death of the holder thereof be transmissible as such.
- (2) No notice of any trust, express, implied or constructive, in respect of any security created by a local authority shall be entered in any register kept by the authority or be receivable by the authority, so however that a holder may be described as a trustee or as possessing an official character.

281 Transmission of security on death.

- (1) The interest in a security created by a local authority of a holder dying shall be transferable by his executors or administrators notwithstanding any specific bequest thereof. i,
- (2) A local authority shall not be required to allow any executors or administrators to transfer any security created by the authority until the confirmation of the executors or until the probate" of the will or the letters of administration of the estate of the deceased, duly resealed, shall have been left with the authority for registration.

282 Evidence on transfer of security.

- (1) A local authority before allowing any transfer of a security created by the authority may, if the circumstances of the case appear to them to make it expedient, require evidence of the title of any person claiming a right to make the transfer.

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- (2) That evidence shall be a statutory declaration of one or more competent persons or evidence of such other nature as the local authority may require.

283 Transmission of security otherwise than by transfer or on death.

- (1) If the interest in any security created by a local authority has been transmitted by any lawful means other than a transfer thereof or than the death of the holder thereof, that transmission shall be authenticated by a statutory declaration of one or more competent persons or in such other manner as the authority may require.
- (2) The name of the person entitled under the transmission shall be entered in the appropriate register.
- (3) Until the transmission has been so authenticated the local authority shall not be affected thereby, nor shall any person claiming by virtue thereof be entitled to receive any interest or dividend on the security.
- (4) In this section the expression " transmission " includes any case of apparent transmission in consequence of the change of name of the holder although the actual ownership of the security may remain unaltered.

284 Title to security and rectification of register.

- (1) A local authority shall be entitled to treat as exclusively entitled to a security created by the authority in relation to which entries had been duly made in the appropriate register the person appearing by the latest of those entries to be entitled thereto.
- (2) If the name of any person is without sufficient cause entered in or omitted from the register or default is made or unnecessary delay takes place in making any entry required to be made in the register, the sheriff may on application by the person aggrieved or by the local authority make an order for the rectification of the register.
- (3) In any proceedings under this section the sheriff may decide any question relating to the title of any party thereto to have his name entered in or omitted from the register and generally any question which it may be necessary or expedient to decide for the purposes of the rectification of the register.
- (4) An appeal shall lie to the Court of Session against any decision of the sheriff on any question relating to the title of any party to any security the nominal value of which exceeds fifty pounds, but save as aforesaid the decision of the sheriff shall be final.

285 Security deed to be delivered to local authority on discharge.

Subject to the provisions of the immediately succeeding section, a local authority shall, on the repayment or discharge of any security created by the authority, obtain delivery of the document creating the security, or failing such delivery such indemnity as the authority may require.

286 Unclaimed security.

- (1) If at the date on which a security created by a local authority is repayable or redeemable the authority, by reason of the holder of the security not being forthcoming or by reason of any doubt as to the ownership of the security or for any other reason which prevents

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the authority from getting a proper discharge, are unable to redeem, extinguish and cancel such security, the authority shall as soon as may be consign in bank by placing on deposit receipt with an incorporated or joint stock bank in name of the authority for behoof of the holder of the security as designed in the appropriate register of the authority a sum equal to the nominal value of the security which cannot be repaid or redeemed by reason as aforesaid, such sum to be dealt with as provided in this section, and thereupon such security shall be deemed to have been extinguished.

- (2) Any sum consigned by a local authority as aforesaid shall, unless uplifted for the purpose of satisfying any claim in respect of the security represented by the same, be kept consigned for a period of ten years, after which time the authority may appropriate the said sum and any accumulations of interest thereon for such purpose as the Secretary of State may approve, without prejudice nevertheless to the right of any person to the total sum so appropriated, but without any interest thereon after the date of appropriation.

287 Appointment of judicial factor in case of non-payment.

- (1) If at any time any principal money borrowed by a local authority by any form of security or any interest or dividend thereon is due and payable by the authority and is not paid within two months after a demand for payment thereof is made in writing to the authority, the person entitled thereto being the holder for the time being of a security by the authority to the amount of not less than one thousand pounds, or the persons entitled thereto being the holders for the time being of securities by the authority amounting together to not less than two thousand pounds, may present a petition to the Court of Session for the appointment of a judicial factor, and the Court may, if they think fit, appoint a judicial factor.
- (2) Subject to the directions of the Court, the judicial factor shall have all the powers competent to the local authority or any officer of the authority in connection with levying rates, making requisitions on rating authorities and collecting and recovering sums due to the authority in respect of rates or requisitions and any other sums whatsoever due to the authority and such other powers and duties as the Court think fit, and shall apply all money so collected and received by him, after payment of expenses and costs including a proper remuneration for his trouble, as the Court direct for the purposes of this Part of this Act.
- (3) The judicial factor shall have such access to and use of the books and documents of the local authority as he may require.
- (4) The powers of this section shall be in addition to and not in derogation of any other powers competent to the holder of a security for enforcing payment of the sums due under the security.

288 Interest and dividends on security in case of death, and &c.

- (1) A local authority shall not be required to pay any executors or administrators any interest or dividend on a security created by the authority until the confirmation of the executors or until probate of the will or the letters of administration, duly resealed, shall have been left with the authority for registration.
- (2) A local authority before paying any interest or dividend on a security created by the authority may, if the circumstances of the case appear to them to make it expedient, require evidence of the title of any person claiming a right to receive the interest or

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dividend, and that evidence shall be a statutory declaration of one or more competent persons or of such other nature as the authority may require.

289 Interest and dividends on security held jointly.

- (1) Where two or more persons are registered as joint holders of any security created by a local authority any one of those persons may give an effectual receipt for any interest or dividend payable in respect thereof unless notice in writing to the contrary has been given to the authority by any other of those persons.
- (2) Where any security created by a local authority is standing in the name of a pupil or minor or person of unsound mind jointly with any person not under legal disability, a letter authorising the payment of interest or dividends on the security shall be sufficient authority to the local authority if given under the hand of the person not under disability attested by one or more witnesses, but the authority before acting on the letter may, if they think fit, require proof to their satisfaction of the alleged pupillarity, minority or unsoundness of mind by a statutory declaration of one or more competent persons.

290 Warrants for interest and dividends by post.

- (1) Except where the holder of a security created by a local authority otherwise directs in writing, the warrants for interest or dividends in respect of his security shall be sent to him by post to the address given by him to the authority if such address is within the United Kingdom, the Channel Islands or the Isle of Man.
- (2) The posting by a local authority of a letter containing a warrant addressed to a holder or his nominee at any such address given by him shall, as respects the liability of the authority, be equivalent to the delivery of the warrant to the holder himself.
- (3) Every warrant so sent by post shall be deemed a cheque and the local authority shall in relation thereto be deemed a banker within the Bills of Exchange Act, 1882.

291 Unclaimed interest and dividends.

- (1) If at any time any interest or dividend on a security created by a local authority is unclaimed at the time for payment thereof, the interest or dividend shall nevertheless on demand at any subsequent time be paid to the person showing his right thereto, but without interest thereon in the meantime and subject to deduction of the expenses incurred by the authority in the publication of any notice under the immediately succeeding subsection.
- (2) Where any interest or dividend remains unclaimed for five years from the time for payment thereof, the local authority shall cause notice thereof to be sent by post in a registered letter addressed to the holder of the security named in the appropriate register at the address therein appearing and shall also publish a notice in a newspaper circulating in the area of the authority that such interest or dividend remains unclaimed and similarly at the expiration of the next succeeding period of five years.
- (3) Nothing in this section shall prevent an unclaimed security being deemed to be extinguished under the provisions of section two hundred and eighty-six of this Act.