



# Local Government (Scotland) Act 1947

## 1947 CHAPTER 43

### PART XVII

PROVISIONS CONSEQUENTIAL ON TRANSFER OF FUNCTIONS BY OR BY VIRTUE OF THIS ACT.

**317 Transfer of property and liabilities and construction of Acts and documents in case of transfer of functions.**

- (1) Where functions are transferred from one local authority to another local authority by this Act or by virtue of any provision of this Act, all property and liabilities so far as held or incurred by or on behalf of the transferor authority for the purposes of the functions so transferred shall, subject to the provisions of this Act, be transferred to and vest in the transferee authority and be held or treated as incurred by or on behalf of the transferee authority for the same purposes, and subject to the same trusts, and, in the case of property subject to the same debts and liabilities, as they were held or incurred by or on behalf of the transferor authority.
- (2) The provisions set out in the Tenth Schedule to this Act (being provisions with respect to the construction of Acts and documents and other matters in case of transfer of functions) shall have effect for the purposes of functions so transferred.

**318 Transfer and compensation of officers on transfer of functions.**

- (1) The provisions of this section shall apply in relation to officers of local authorities affected by any transfer of functions by this Act or by virtue of any provision of this Act.
- (2) Any existing officer who in consequence of the transfer of functions or of anything done following thereon suffers any direct pecuniary loss by reason of the determination of his appointment or the diminution of his emoluments and for whose compensation for that loss no other provision is made by any enactment or statutory order for the time being in force shall be entitled to payment, by the transferee authority or such other authority as the authorities concerned may agree or the Secretary of State may determine, of compensation :

Provided that, in the case of an officer of justices of the peace entitled to compensation in consequence of a transfer of functions under Part XVI of this Act, the compensation shall, as respects both the transfer of functions to the county council and the transfer of functions to town councils of burghs within the county, be paid by the county council, but each of the said town councils shall pay to the county council such proportion of the compensation as may be agreed upon between the councils concerned, or, failing agreement, as may be determined by the Secretary of State.

- (3) An existing officer who, at any time within five years after the date on which the transfer of functions takes effect, relinquishes office by reason of his having been required to perform duties which are not analogous to, or which are an unreasonable addition to, those which he was required to perform immediately before that date shall be deemed for the purposes of this section to have had his office determined in consequence of the transfer of functions and, unless the contrary is shown, to have suffered direct pecuniary loss in consequence thereof by reason of such determination.
- (4) An existing officer whose appointment is determined or whose emoluments are reduced within five years after the date on which the transfer of functions takes effect because his services are not required or his duties are diminished (no misconduct being established) shall be deemed, unless the contrary is shown, to have suffered direct pecuniary loss in consequence of the transfer.
- (5) The provisions set out in the Eleventh Schedule to this Act (being provisions as to the determination and payment of compensation to officers in case of transfer of functions) shall apply for the purposes of this section.
- (6) The payment of compensation by way of a lump sum shall be a purpose for which a local authority may borrow, so however that any sum so borrowed shall be repaid within a period of five years from the date on which the payment of the lump sum is made.

### **319 Provisions as to superannuation rights of transferred officers.**

Where officers of a local authority who are entitled as such to benefits of a superannuation enactment are transferred to the service of another local authority in consequence of a transfer of functions by or by virtue of this Act, provision shall be made by a scheme made by the Secretary of State, after consultation with the local authorities and officers concerned—

- (a) for securing that the superannuation enactment to the benefits of which such an officer was entitled immediately before his transfer shall continue to apply to him, subject to such modifications and adaptations as the Secretary of State may determine; or
- (b) for applying to the officer, subject to such modifications and adaptations as the Secretary of State may determine, any superannuation enactment to the benefits of which officers of the authority to which the officer is transferred are entitled;

and any such scheme may contain such incidental, consequential and supplemental provisions as appear to the Secretary of State to be necessary or proper for giving full effect to the provisions of this section and of the scheme.

### **320 Interpretation and application of Part XVII of Act and Tenth and Eleventh Schedules.**

- (1) In this Part of this Act and in the Tenth and Eleventh Schedules to this Act, unless the context otherwise requires, the following expressions have the meanings hereby respectively assigned to them—

" existing officer " means, in relation to a transfer of functions from one local authority to another authority, an officer of the transferor authority who holds office at the date on which the transfer of functions takes effect;

" office " means any place, situation or employment under a local authority, and includes the office of registrar of births, deaths and marriages, assistant registrar of births, deaths and marriages, clerk to the justices of the peace or procurator fiscal in the justices of the peace court, and the expression " officer " has a corresponding meaning;

" superannuation enactment " means an enactment, including a scheme made under an enactment, by virtue of which persons employed by a local authority become entitled to superannuation benefits on retirement;

" transferred function " includes a function deemed to have been transferred, and other expressions relating to transfer of functions shall be construed accordingly;

" transferee authority " means the authority to whom functions are transferred by this Act or by virtue of any provision of this Act;

" transferor authority " means the authority from whom functions are transferred by this Act or by virtue of any provision of this Act.

- (2) For the purposes of this Part of this Act and of the Tenth and Eleventh Schedules to this Act, a function shall be deemed to be transferred where local authorities combine or are combined for the purposes of that function, and any question as to which is the transferee authority shall be determined by the Secretary of State.
- (3) The provisions of this Part of this Act and of the said Tenth and Eleventh Schedules shall, subject to any necessary modifications, apply to and as respects justices of the peace of a county, magistrates of a burgh or any other body or authority affected by any alteration of area under Part VI of this Act as they apply to and as respects a local authority and as if each of the said bodies or authorities were a local authority.