



Local Government (Scotland) Act 1947

1947 CHAPTER 43

PART XX

GENERAL.

Charitable Trusts, Parish Trusts, &c.

357 Election of trustees under certain Acts, charters, and &c.

Where any trust, management or direction of any charitable or other institution is by the terms of any enactment or any charter or deed of foundation or other deed conferred or imposed on any members of a town council under the denomination of old provost, old bailie, old dean of guild or of merchants or trades bailies or merchants or trades councillors or under some other denomination, the town council shall from time to time nominate and elect from their own body such a number of persons to be such trustees, managers or directors as are by such enactment, charter or deed appointed to those offices under any of the said denominations, and the whole functions belonging to the said offices of trustees, managers or directors shall belong to and be as fully vested in the persons so elected as if they had possessed the denominations used in the said enactment, charter or deed.

358 Trusts vested in deacons, and &c.

Where any trust, management or direction of any charitable or other institution is vested in any number of deacons or in a deacon convener or convener of trades or in any dean of guild or other office bearers elected by the several crafts, trades, guildries or merchants or trades houses, then and in all such cases the persons so elected as such deacons, conveners, deans of guild or other, officers shall be and continue trustees and managers of such charities or institutions whether such persons are members of town council or not, and the town councils shall in no such case have power to elect from their own body any other trustees or managers in place of such deacons, conveners, deans of guild, or other officers:

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Provided that in any burgh in which trades, councillors or merchant councillors are or may be ex officio trustees or directors of any such institutions or charities, the convenery or trades house and the guildry or merchants house in such burghs shall elect an equal number from their own bodies respectively to be such trustees or directors notwithstanding anything in this Act to the contrary.

359 Parish trusts.

- (1) Where trustees hold any property wholly or: mainly for the benefit of the inhabitants of any parish or two or more parishes within the area of a council concerned, or any of the inhabitants as such inhabitants or for any such purpose connected with any parish or two or more such parishes (other than for an ecclesiastical charity, or for the use or benefit of the poor of the parish within the meaning of section fifty-two of the Poor Law (Scotland) Act, 1845) they may transfer the property to the council concerned within the meaning of this section or to persons to be from time to time appointed by that council, and the council concerned, if they accept the transfer, or the persons whom they appoint shall hold the property on the trusts and subject to the conditions on which the trustees held the property immediately prior to the transfer.
- (2) Any property vested in a council concerned or in trustees appointed by a council concerned by virtue of any enactment repealed by this Act corresponding to the foregoing subsection shall be held by the council or the trustees, as the case may be, on the trusts and subject to the conditions on which they held the property immediately prior to the commencement of this Act.
- (3) In the event of any such property not being transferred to the council concerned under and subject to the provisions of subsection (1) of this section or the corresponding enactment repealed by this Act, the council concerned may from time to time appoint such number of additional persons to act along with the trustees of the said property as the trustees and the council may agree or in default of agreement as may be determined by the Secretary of State in each case:

Provided that, where the trustees of any such property are elected by or include persons elected by the local government electors or inhabitants of the parish or parishes or are members of any local authority whose area includes the parish or parishes or any part thereof, the provisions of this subsection shall not apply unless the Secretary of State by order so determines.

- (4) Where the trustees of any such property are the kirk session or the heritors and kirk session of any parish or the kirk session or deacons court or managers or vestry of a congregation belonging to any religious denomination, to the number, whether alone or conjoined with others, of not less than six persons, the said trustees shall from time to time appoint certain of their own number not exceeding three, and the council concerned shall from time to time appoint such number of additional persons as the Secretary of State may in each case approve, to act together as a committee of management of the said property, and the management of the property shall be transferred to the committee accordingly.
- (5) Where trustees hold any property for the benefit of the inhabitants of, or for any public purpose (other than as hereinbefore mentioned) connected with, two or more parishes and there are two or more councils concerned, the councils concerned may if the Secretary of State so decides from time to time appoint, in such manner or rotation and subject to such conditions as may be determined in any order of the Secretary of

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State, such number of additional persons to act as trustees of the said property as may be approved by the Secretary of State in each case.

- (6) The term of office of a trustee appointed under this section shall not be longer than three years, but a trustee shall hold office until his successor is appointed and shall be eligible for re-appointment.
- (7) The Secretary of State may by order make rules—
 - (a) as to the form in which the accounts of any property to which this section applies shall be kept; and
 - (b) as to the publication of such accounts.
- (8) While a person is trustee of any property or revenues falling within the provisions of this section, neither he nor his spouse nor any of his children shall receive any benefit therefrom.
- (9) The provisions of this section with respect to the appointment of trustees shall not apply to any charity until the expiration of forty years from the date of the foundation thereof.
- (10) The expression " council concerned " means—
 - (a) if the trust (not being a trust with respect to the poor or to churchyards or to burial grounds) relates to a landward parish, the district council of the district in which the parish is situated, or if such a trust relates to a parish containing a landward part, then, so far as the trust relates to the landward part, the district council of the district in which the landward part is situated;
 - (b) if the trust relates to a churchyard or burial ground situated within a small burgh, the town council of the burgh;
 - (c) in any other case, the county council of the county or the town council of the large burgh in which the parish is situated;and where in any case under paragraph (a) or (c) hereof the parish is situated in the areas of two or more such councils, the expression includes the two or more councils.
- (11) Nothing in this section shall apply to an educational endowment.

360 Saving as to election of deacon convener, and &c.

Nothing in this Act shall be held or construed to impair the right of any craft, trade, convenery of trades or guildry or merchants house or trades house or other such corporation severally to elect their own deacons or deacon convener Or dean of guild or directors or other lawful officers for the management of the affairs of such craft, trade, convenery of trades, or guildry, merchants or trades house or other such corporation, but on the contrary the said several bodies shall be in all cases entitled to the free election in such form as shall be regulated by them of the said several office bearers and other necessary officers for the management of their affairs without any interference or control whatsoever on the part of the town council or any member thereof.