



Local Government (Scotland) Act 1947

1947 CHAPTER 43

PART XX

GENERAL.

Miscellaneous Provisions.

379 Interpretation.

(1) In this Act, unless the context otherwise requires, the following expressions have the meanings hereby respectively assigned to them:—

" alteration of area " includes an alteration of the boundary of a county, burgh, district or parish, the formation of a burgh or the dissolution of a burgh under Part VI of this Act;

" burgh " means a royal burgh, a parliamentary burgh, a burgh incorporated by Act of Parliament or a police burgh to which the Burgh Police (Scotland) Act, 1892, applies, and any other burgh created after the commencement of this Act under this Act or otherwise;

" Burgh Police Acts " means the Burgh Police (Scotland) Acts, 1892 to 1911, and the Acts amending those Acts;

" Burial Grounds Acts " means the Burial Grounds (Scotland) Act, 1855, and the Acts amending that Act;

" classified road " means a road classified by the Minister of Transport under the Ministry of Transport Act, 1919, in Class I or Class II or in any class declared by him to be not inferior to those classes for the purposes of this Act;

" committee ", in relation to a local authority, means a committee to which is referred or delegated any functions vested in the authority;

" delegate ", in relation to a committee appointed by a local authority, means remit to the committee with power to the committee to exercise on behalf of the authority the function specified in the remit, and includes power to grant any obligation or enter into any contract or execute any deed on behalf of the authority in relation to the matter so remitted, and where any function is

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delegated by an authority to a committee, the committee may exercise the function in like manner in all respects as the authority could have done;

" ecclesiastical charity " includes a charity the endowment whereof is held for one or more of the following purposes:—

- (a) for theological instruction or for the benefit of any theological institution; or
- (b) for the benefit of any ecclesiastical person or officer as such; or
- (c) for use, if a building, as a church, chapel, mission hall or room, or Sunday school or otherwise by any particular church or denomination; or
- (d) for the maintenance, repair or improvement of any such building as aforesaid, or for the maintenance of divine service therein; or
- (e) otherwise for the benefit of any particular church or denomination or of any members thereof as such:

Provided that where any endowment of a charity, other than a building held for any of the purposes aforesaid, is held in part only for some of the purposes aforesaid, the charity, so far as that endowment is concerned, shall be an ecclesiastical charity within the meaning of this Act;

" educational endowment " has the same meaning as in Part VI of the Education (Scotland) Act, 1946;

" educational establishment " has the same meaning as in the Education (Scotland) Act, 1946;

" electoral area ", in relation to an election, means the electoral division, burgh, ward or other area for which the election is held;

" emoluments " includes all salary, wages, fees and other payments paid or made to an officer as such for his own use, and the money value of any apartments, rations or other allowances in kind pertaining to his office, but does not include payments for overtime or any sum paid to him to cover travelling expenses, cost of office accommodation, assistance of deputies or clerical or other assistance;

" enactment " includes a provision in a provisional order confirmed by Parliament;

" fixed period ", in relation to money borrowed by a local authority, means the period within which the money is to be repaid;

" functions " includes powers and duties;

" General Board of Control " means the General Board of Control for Scotland;

" grant-aided school " means a school in respect of which grants are made by the Secretary of State to the managers of the school, other than grants in aid of the managers' contributions towards the cost of superannuation of teachers, but does not include a residential school or an orphanage or an approved school within the meaning of the Children and Young Persons (Scotland) Act, 1937;

" grants under Part III of the Local Government (Scotland) Act, 1929 " includes grants made under any subsequent enactment out of moneys provided by Parliament towards local government purposes in Scotland by way of addition to the General Exchequer Contribution under the said Part III ;

" gross annual valuation ", in relation to lands and heritages within an area, means the total of the gross annual values of the said lands and heritages;

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" gross annual value ", in relation to lands and heritages, means the yearly rent or value thereof as entered in the valuation roll in accordance with the provisions of the Valuation Acts, but without any deduction therefrom or division thereof under the Rating (Scotland) Act, 1926, "or Part II of the Local Government (Scotland) Act, 1929;

" joint board " means a body corporate, constituted for the purposes of a combination of local authorities under this Act or any other enactment or any statutory order, consisting exclusively of persons appointed by the local authorities;

" joint committee " means a body, not being a body corporate constituted for the purpose of a combination of local authorities under this Act or any other enactment or any statutory order, consisting exclusively of persons appointed by the local authorities;

" land " includes any right or servitude in, to or over land;

" lands and heritages " has the same meaning as in the Valuation Acts;

" landward area ", in relation to a county, means the county excluding any burghs therein;

" large burgh " means any of the burghs mentioned in Part III of the First Schedule to this Act and, save as provided in subsection (4) of section one, includes any of the counties of cities mentioned in Part II of that Schedule;

" levy ", in relation to a rate, includes impose;

" local Act " includes a provisional order under any Act confirmed by Parliament;

" local authority " means a county council, a town council or a district council;

" local government elector " or " elector " means a person registered as a local government elector in the register of electors in accordance with the provisions of the Representation of the People Acts;

" magistrates " includes the provost;

" Minister " means the Secretary of State or other Minister or the General Board of Control or other Government Department, and includes the Electricity Commissioners;

" Minister concerned " means—

- (a) in relation to any transaction relating to land, the Minister concerned with the purpose for which the land is proposed to be acquired or for which the land is held;
- (b) in relation to a combination of local authorities or any joint committee or joint board, the Minister concerned with the purpose for which the combination or joint committee or joint board has or will have effect; and
- (c) in any other case, the Minister concerned with the purpose or function in the case of which the provisions of the particular section of this Act apply or are sought to be applied; and if any question arises under this Act as to which Minister is the Minister concerned the question shall be determined by the Treasury;

" occupier " means the tenant or sub-tenant or any person in the actual occupation of land, but does not include a lodger or a person in the occupation as tenant of a furnished house let for a period less than one year, but includes the person by whom such a furnished house is so let;

" officer " includes a servant;

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" owner ", in relation to land, means the person who, for the time being, receives, or, if the land were let, would be entitled to receive the rent of the land, or who, in the case of land which is unlet, is entitled to occupy the land, and includes any trustee, tutor, curator, factor, agent or other person receiving the rent on behalf of any other person, and also a joint owner and a fiar;

" Poor Law Acts " means the Poor Law (Scotland) Act, 1845, and the Acts amending that Act;

" prescribed " means prescribed by regulations, which regulations shall, unless otherwise provided, be made by the Secretary of State;

" property " includes all property, heritable and moveable, and all rights, interests and servitudes in, to and over property; ,

" public body " includes a local authority and any trustees, commissioners or other persons who as a public body and not for their own profit act under any enactment or statutory order for the improvement of any place or for the supply to any place of water, gas or electricity or for providing or maintaining a market or other public service in any place, and any other authority having power to levy a rate or issue a requisition for payment out of any rate levied for public local purposes;

" Public Health Acts " means the Public Health (Scotland) Act, 1897, and the Acts amending that Act;

" Public Libraries Acts " means the Public Libraries (Scotland) Acts, 1887 to 1920, and the Acts amending those Acts;

" public utility undertaking ", in relation to a local authority, means an undertaking for the provision of water, gas, electricity or transport or any other such revenue-producing service by the authority;

" rate " means any rate, charge and assessment the proceeds of which are applicable to public local purposes and which is leviable in respect of lands and heritages;

" rateable valuation ", in relation to lands and heritages within an area, means the total of the rateable values of the said lands and heritages;

" rateable value " means—

- (a) in the case, of lands and heritages (other than agricultural lands and heritages within the meaning of the Rating and Valuation Apportionment Act, 1928) the gross annual value, subject in appropriate cases to the deductions specified in the First Schedule to the Rating (Scotland) Act, 1926, and to the division directed to be made by paragraph (a) of subsection (1) of section forty-five of the Local Government (Scotland) Act, 1929;
- (b) in the case of agricultural lands and heritages within the meaning of the said Act of 1928, the gross annual value subject to the deduction of eighty-seven and one half per centum thereof;

and, after giving effect in the appropriate cases to the above provisions, subject to any adjustment required to be made in accordance with the provisions of section forty-five of the Burgh Police (Scotland) Act, 1903, or subsection (7) of section twelve of the Rating (Scotland) Act, 1926, or any corresponding provisions of a local Act;

" refer ", in relation to a committee appointed by a local authority, means remit to the committee for consideration and report to the authority but without power to the committee to exercise any function on behalf of the authority,

and the expressions "reference" and "stand referred" shall be construed accordingly;

"register", in relation to a security of a local authority, means any register kept under Part XII of this Act or under any regulations made thereunder and includes any book kept by the authority for the purpose of recording therein, entries with respect to the title to and notifications relating to the security;

"Registration of Births, Deaths and Marriages Acts" means the Registration of Births, Deaths and Marriages (Scotland) Acts, 1854 to 1938, and the Acts amending those Acts;

"resealed" in relation to a probate or letters of administration, means produced in the commissary court of the county of Midlothian and certified by the commissary clerk of that court or sealed with the seal of that court in accordance with any enactment regulating the same;

"Roads and Bridges Acts" means the Roads and Bridges (Scotland) Act, 1878, and the Acts amending that Act;

"salary" includes allowances;

"sale" includes a sale in consideration of a ground annual or other periodical payment, and the expressions "sell" and "purchase" shall be construed accordingly;

"security", in relation to a local authority, means a mortgage, a cash credit bond, a deposit receipt or other document of debt issued by the authority and the security created thereby (including stock created by the authority or a certificate in respect of such stock) whether under this Act or any other enactment or any statutory order or any enactment repealed by this Act, but does not include a local bond under section seventy-one of, and the Fourth Schedule to, the Housing (Scotland) Act, 1925, or under any enactment repealed by that Act, or a bond and disposition in security or other deed of security or document of debt affecting the common good of a burgh, except a document of debt for money borrowed for common good purposes under a statutory borrowing power

"senior bailie" means the bailie who has been longest in office since his last election as bailie and, where more than one bailie is elected at the same time, means the bailie whom the town council determine to be senior bailie under Part I of this Act;

"small burgh" means any burgh other than a large burgh or a county of a city;

"statutory borrowing power" means any power to borrow money conferred on a local authority by this Act or any other enactment or any statutory order or by any enactment repealed by this Act, but does not include the power of the town council of a burgh to borrow for the purposes of the common good other than purposes for which the council are authorised to borrow by or under any enactment;

"statutory order" means any order, rule or regulation made under any enactment, and includes any scheme made under the Highlands and Islands (Medical Service) Grant Act, 1913;

"statutory undertakers" means any persons (including a local authority) authorised by any enactment or statutory order or any scheme made, under or confirmed by an enactment to construct, work or carry on any railway, light railway, tramway, road transport, water transport, canal, inland navigation, dock, harbour, pier or lighthouse undertaking or any undertaking for the supply of gas, electricity, hydraulic power or water;

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" trustee securities " means investments in which trustees are by the law of Scotland authorised to invest, and includes, in the case of a local authority making an investment, any trustee securities created or issued by the authority themselves;

" Valuation Acts " means the Lands Valuation (Scotland) Act, 1854, and the Acts amending that Act;

" working capital ", in relation to a public utility undertaking, means money required from time to time to carry on the undertaking, other than money required to meet expenditure of a capital nature.

- (2) Where a county council exercise any function within a burgh, the burgh shall for the purposes of that function be deemed to be within the county.
- (3) Where in this Act provision is made for a consent, sanction, or approval by the Secretary of State or other Minister, such consent, sanction or approval may be given subject to such conditions as the Secretary of State or other Minister may determine, and failure to comply with any condition so imposed shall operate as if the consent, sanction or approval had not been given as respects the matter in which the failure occurred.
- (4) References in this Act to regulations made, approval given or other thing done by the Secretary of State shall be deemed to include references to regulations made, approval given or other thing done before the commencement of this Act by any Government Department whose functions have been transferred to and are at the commencement of this Act vested in the Secretary of State.
- (5) References in this Act to a local Act shall be construed as references to such Act only in its application to the local authority or area to which it applies.
- (6) Unless the context otherwise requires, any reference in this Act to an enactment contained in the Burgh Police Acts or in the Town Councils (Scotland) Acts, 1900 to 1923, shall be construed as including a reference to that enactment as applied or adopted by a local Act or by a resolution passed under statutory authority.
- (7) Unless the context otherwise requires, any reference in this Act to any enactment shall be construed as a reference to that enactment as amended or extended by any subsequent enactment including this Act.