



# Local Government (Scotland) Act 1894

## 1894 CHAPTER 58

### PART V

#### PARISH TRUSTS

#### **30 Powers of parish councils over parish charities and churchyards**

- (1) When trustees hold any property wholly or mainly for the benefit of the inhabitants of a single parish or any of them, as such inhabitants, or for any public purpose connected with a single parish other than—
  - (a) for an ecclesiastical charity ;
  - (b) for an educational endowment within the meaning of the Educational Endowments (Scotland) Act, 1882 ; or
  - (c) 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 parish council of the parish, or to persons to be from time to time appointed by that council, and the parish council, if they accept the transfer, or persons whom they appoint, shall hold the property on the trusts and subject to the conditions on which the trustees hold the same.

- (2) In the event of any such property not being transferred to the parish council under and subject to the provisions of the preceding sub-section, the parish council of the parish 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 parish council may agree upon, or in default of such agreement as may be approved by the Board in each case: Provided that where the trustees of any such property are elected by, or include persons elected by, parish electors or inhabitants of the parish, or are members of the county or town council, or are burgh commissioners, the provisions of this sub-section shall not apply unless the Board by order so prescribe.
- (3) 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 deacon's 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

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*Status: This is the original version (as it was originally enacted).*

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time appoint certain of their own number, not exceeding three, and the parish council of the parish shall from time to time appoint such number of additional persons as the Board may in each case approve, to act together as a committee of management of the said property, and such management shall be transferred to the committee accordingly.

- (4) Where trustees hold any property for the benefit of the inhabitants of, or for any public purpose (other than as herein-before mentioned) connected with, two or more parishes, the parish councils of the parishes concerned may, if the Board so decide, from time to time appoint, in such manner or rotation and subject to such conditions as may be prescribed in any order of the Board, such number of additional persons to act along with the trustees of the said property as may be approved by the Board in each case.
- (5) The term of office of a trustee appointed under this section shall be not longer than three years, but a trustee shall hold office until his successor is appointed, and shall be eligible for re-appointment.
- (6) The heritors of any parish may transfer the property of any churchyard which they hold to the parish council, and the parish council, if they accept such transfer, shall thereafter hold such churchyard for the same purposes and subject to the same rights for and subject to which it was held by such heritors, and shall have and may exercise and perform all the powers and duties before such transfer vested in or imposed on such heritors in relation to the churchyard transferred (except any power or duty of enlarging or extending such churchyard and assessing for the cost of such enlargement or extension): Provided that the costs of maintenance and management of such churchyard after such transfer shall, if and so far as they require to be defrayed out of any rate, be a charge upon the poor rate: and provided also that such transfer shall not alter or transfer any liability to assess for the repayment of any debt or the incidence of any assessment levied for such repayment. After such transfer the powers and duties transferred shall no longer be exercised and performed by such heritors.
- (7) The Board may by order prescribe rules (1) as to the form in which the accounts of any property dealt with in this section shall be kept, and (2) as to the publication of the said accounts.
- (8) Whilst a person is trustee of any property or revenues falling within the provisions of this section, he shall not, nor shall his wife or any of his children, 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, or, in the case of a charity founded before the passing of this Act by a donor, or by several donors, any one of whom is living at the passing of this Act, until the expiration of forty years from the passing of this Act, unless with the consent of the surviving donor or donors.