



# Local Government (Scotland) Act 1973

## 1973 CHAPTER 65

### PART VIII

#### FUNCTIONS

##### *The environment*

#### **133 Roads**

- (1) The local highway authority for the purposes of this Act and any other enactment (whether passed or made before or after the passing of this Act) shall be a regional or islands council; and the enactments set out in Schedule 14 to this Act shall have effect subject to the amendments specified in that Schedule.
- (2) The powers and duties vested in the council of each county in relation to roads by virtue of section 11 of the Local Government (Scotland) Act 1889 shall be transferred to and vested in the local highway authority.

#### **134 Buildings**

- (1) The jurisdiction and functions of buildings authorities and functions of masters of works conferred on them by the Building (Scotland) Acts 1959 and 1970 shall be transferred to the councils of islands areas and districts, except that in the case of districts situated within the Highland, Borders and Dumfries and Galloway regions they shall be transferred to the councils of those regions.
- (2) The Building (Scotland) Act 1959 shall have effect subject to the amendments specified in Part I of Schedule 15 to this Act, and Part II shall have effect for making amendments to other enactments relating to building.

### 135 Prevention of river pollution

- (1) River purification boards established under Part II of the Rivers (Prevention of Pollution) (Scotland) Act 1951 are hereby dissolved and sections 2 to 5 of the said Act shall cease to have effect.
- (2) On and after 16th May 1975 the functions of river purification authorities under the Rivers (Prevention of Pollution) (Scotland) Acts 1951 and 1965 shall be exercised by river purification boards established under the following provisions of this section and by islands councils.
- (3) The Secretary of State shall, by order, divide Scotland, other than islands areas, into areas (to be known as "river purification board areas") and the said areas shall include such tidal waters, being waters to which the Rivers (Prevention of Pollution) (Scotland) Acts 1951 and 1965 apply, as the Secretary of State may determine.
- (4) An order made under subsection (3) above shall define each river purification board area either by reference to a map or to the line of any watershed or to the boundary of any local government area existing immediately before the making of the order, or partly by one method and partly by another.
- (5) For each river purification board area the Secretary of State shall by order establish the river purification board and the said order shall provide—
  - (a) that the river purification board shall consist of such number of members as may be specified in the order not being more than three times the number of districts wholly or partly within the river purification board area,
  - (b) that one third of the members of the river purification board shall be appointed from among their own members by such of the regional councils wholly or partly within the area of the river purification board and in such proportions, as may be so specified; that one third of the members of the river purification board shall be appointed from among their own members by such of the district councils wholly or partly within the area of the river purification board and in such proportions as may be so specified ; and that one third of the members of the river purification board shall be appointed by the Secretary of State, after consultation with such bodies as he thinks fit, to represent the interests of persons concerned with the carrying on of agriculture, fisheries or industry in the river purification board area or any other interests which, in the opinion of the Secretary of State, should be represented on the board,
  - (c) that the river purification board shall be a body corporate with such name as may be specified in the order, and that the board shall have a common seal and may hold land and may sue and be sued in the name so specified.
- (6) An order made under subsection (5) above may make provision with regard to the following matters—
  - (a) the arrangements for the calling of the first meeting of the river purification board;
  - (b) the preparation of a scheme with respect to the administrative arrangements for the discharge of the functions of the river purification board;
  - (c) the tenure of office of members of the river purification board and the filling of casual vacancies among such members;
  - (d) the mode of defraying the expenses of the board and in particular the proportions of those expenses which are to be borne severally by regional councils and for issue of requisitions to the said councils for the payment of the amounts apportioned to these councils ;

- (e) the transfer to the river purification board of rights or liabilities (other than those in or relating to property) or of the services of any officer or servant of any existing river purification authority, the functions of which, on and after 16th May 1975, shall be exercised by the river purification board in terms of subsection (2) of this section;
  - (f) the application to the board, subject to any necessary modifications, of any of the provisions of this Act;
  - (g) any other matter incidental to or consequential on the establishment of the river purification board or any provision contained in the order.
- (7) Before making an order under subsection (3) or (5) above the Secretary of State shall consult all local authorities (including in the case of an order made before 16th May 1975, councils of counties and large burghs) and river purification boards whose areas are wholly or partly within the area affected by the order, and the provisions of Schedule 3 to the Water (Scotland) Act 1967 shall apply to the making of such an order as they apply to the making of an order under section 5 of that Act with the substitution of a reference to this subsection for the reference to section 33(4) of that Act.
- (8) Any reference in the Rivers (Prevention of Pollution) (Scotland) Acts 1951 and 1965 to the councils of counties or of large burghs and to their districts shall be read as references to regional, islands or district councils and to their areas.
- (9) The provisions of section 216 of the 1947 Act (which relate to the issue of requisitions by joint committees and joint boards) shall, subject to any necessary modifications, apply to a requisition by a river purification board in terms of an order under this section as they apply to requisitions by a joint committee or joint board, and the provisions of section 106 of this Act shall, subject to any necessary modifications, apply with respect to a river purification board as they apply to a water development board within the meaning of the Water (Scotland) Act 1967.
- (10) The Rivers (Prevention of Pollution) (Scotland) Acts 1951 and 1965 shall have effect subject to the amendments specified in Schedule 16 to this Act.

### **136 Deposit of poisonous waste**

- (1) The local authority for the purposes of the Deposit of Poisonous Waste Act 1972 shall be an islands council or a district council; and accordingly in section 5(1)(b) of that Act for the words " county councils and town " there shall be substituted the words " islands councils and district ".
- (2) In sections 3(5), 4(3) and 5(3) of that Act for any reference to a river purification board there shall be substituted a reference to a river purification authority.
- (3) In section 7 of that Act after the definition of "refuse tip " there shall be inserted the following definition " river purification authority " has the same meaning as in section 17 of the Rivers (Prevention of Pollution) (Scotland) Act 1951, but shall not include an islands council."

### **137 Flood prevention and food warning systems**

- (1) All functions of town and county councils under the Flood Prevention (Scotland) Act 1961 are hereby transferred to regional and islands councils, and accordingly for section 1(2) of that Act there shall be substituted the following subsection—

“(2) This section applies to all regional and islands councils, and in this Act any reference to a local authority is a reference to a council to whom this section applies.”

- (2) All functions of town and county councils under Part VI of the Agriculture Act 1970 (flood warning systems) are hereby transferred to regional and islands councils.

### **138 Coast protection**

- (1) The coast protection authority for the purposes of the Coast Protection Act 1949 shall be the council of a region any part of which adjoins the sea, or an islands council.

- (2) In the said Act of 1949 the following amendments shall be made—

- (a) for section 1(1) (coast protection authorities), there shall be substituted the following subsection—

“(1) The council of a region any part of which adjoins the sea or of an islands area shall be the coast protection authority for that region or area, as the case may be.”;

- (b) in section 20(5) (contributions towards expenses of coast protection) for the word " burgh " there shall be substituted the word " district ";

- (c) in section 22 (power to use for incidental purposes land acquired for coast protection)—

(i) in subsection (2), for the words " burgh or county " there shall be substituted the words " region or islands area ".

(ii) in subsection (3), for the reference to the Local Government (Scotland) Act 1947 there shall be substituted a reference to the Local Government (Scotland) Act 1973 ;

- (d) in section 30 (transfer and compensation of officers, and superannuation rights), at the end there shall be added the following subsection—

“(4) This section shall not apply to Scotland.”;

- (e) in section 45(1)(b) (service of notices and other documents), for the words " or burgh " there shall be substituted the words " or in Scotland the council of a region, islands area or district ";

- (f) in section 46(4) (local inquiries), for the words from " subsection (2) " to " 1947 " there shall be substituted the words " subsection (2) and subsections (4) to (8) of section 210 of the Local Government (Scotland) Act 1973 ";

- (g) in Schedule 1 (procedure for making orders), for paragraph 8(b) there shall be substituted the following sub-paragraph—

“(b) for references to the London Gazette and to a county or county district there shall be substituted respectively references to the Edinburgh Gazette and to a region, islands area or district”.

### **139 Public parks**

The functions of local authorities under the Public Parks (Scotland) Act 1878 shall be exercised by regional, islands or district councils.

#### **140 Allotments**

The functions of local authorities under the Allotments (Scotland) Acts 1892 to 1950 shall be exercised by islands and district councils.

#### **141 Public conveniences**

The local authority for the purposes of section 5 of the Chronically Sick and Disabled Persons Act 1970 (public conveniences) shall be a local authority within the meaning of this Act, and accordingly in subsection (3) of that section, for the word " 1947 " there shall be substituted the word " 1973 ".

#### **142 Public health**

- (1) For the purposes of the enactments to which this section applies, the local authority and sanitary authority shall be an islands or district council.
- (2) This section applies to the following enactments—
  - (a) The Public Health (Scotland) Act 1897 ;
  - (b) The Alkali, Etc., Works Regulation Act 1906 ;
  - (c) The Public Health (Scotland) Act 1945 ;
  - (d) Part I of the Prevention of Damage by Pests Act 1949 ;
  - (e) The Rag, Flock and Other Filling Materials Act 1951 ;
  - (f) The Clean Air Acts 1956 and 1968 ;
  - (g) The Noise Abatement Act 1960 ;
  - (h) The Health Services and Public Health Act 1968, except section 65 thereof.

#### **143 Sewerage**

The functions of local authorities under the Sewerage (Scotland) Act 1968 shall be transferred to regional and islands councils.

#### **144 Diseases of animals, and plant health**

- (1) The local authority for the purposes of the Diseases of Animals Act 1950 shall be a regional or islands council, and accordingly in section 59(3) of that Act (local authorities for the purposes of that Act), for paragraphs (a) and (b) there shall be substituted the words " a regional or islands council ".
- (2)
  - (a) In section 43 of that Act (facilities for sheep dipping), the words " with the sanction of the Minister " shall cease to have effect.
  - (b) Sections 60, 61(7), 64(2) and 68 of, and Schedule 4 to, that Act (committees and officers of local authorities etc.) shall cease to have effect.
- (3) A competent authority under the Plant Health Act 1967 shall no longer have certain powers of direction, and accordingly, in section 5(2) of that Act (records of proceedings), the words from " in such manner " to " direct " shall be omitted, and, in section 6(3) of that Act (publication of orders), the words from " in such " (where first occurring) to " direction " shall cease to have effect.

**145 Ordnance Survey**

- (1) The Ordnance Survey Act 1841 (in this section referred to as " the 1841 Act") shall have effect subject to the modifications set out in this section.
- (2) An application under section 1 as read with section 17 of the 1841 Act shall be made to the proper officer of the regional, islands or district council, and where such an application is made, the function of appointing a person to assist in examining, ascertaining and marking out reputed boundaries shall be exercisable by the council to whose proper officer the application was made.
- (3) The newspapers in which copies of an application under section 1 as read with section 17 of the 1841 Act are to be inserted shall be those circulating in the area of the council to whose proper officer the application was made.
- (4)
  - (a) References, in whatever terms in the 1841 Act, to the sheriff by whom a person is appointed under section 1 as read with section 17 of that Act shall be construed as references to the regional, islands or district council, as the case may be.
  - (b) References in the 1841 Act to the sheriff clerk or sheriff clerk depute shall be construed as references to the proper officer of the regional, islands or district council, as the case may be.
- (5) References in the 1841 Act to a county shall be construed as references to a region, islands area or district, as the case may be, including the electoral areas thereof and other places therein.