



# Local Government (Scotland) Act 1973

## 1973 CHAPTER 65

### PART XI

#### GENERAL PROVISIONS AS TO LOCAL AUTHORITIES

##### *Legal Proceedings, Notices, etc.*

#### **189 Legal proceedings**

- (1) Where a local authority consider it expedient for the promotion or protection of the interests of the inhabitants of their area or any part thereof, they may institute, defend or appear in any legal proceedings or represent the inhabitants at any local inquiry held by or on behalf of any Minister or public body under any enactment.
- (2) Any member or officer of a local authority, who is authorised in that behalf by the authority, shall be entitled to institute, defend or appear in proceedings before a court of summary jurisdiction although he is not a practising solicitor.

#### **190 Service of legal proceedings, notices, etc., on local authorities**

Any legal proceedings against a local authority shall be deemed to have been duly served on the authority if served on the proper officer of the authority, and any notice, order or other document required or authorised by any enactment or any instrument made under an enactment to be sent, delivered or served to or upon a local authority or to or upon the proper officer or chairman of a local authority, shall be addressed to the local authority or to the proper officer or chairman, as the case may be, and left at, or sent by post in a prepaid letter to, the offices of the local authority.

#### **191 Claims in sequestrations and liquidations**

The proper officer of a local authority or any other officer authorised by the authority for the purpose may sign on behalf of the authority any claim in any sequestration, liquidation or other such proceedings in which the authority are entitled to make a

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claim, and may act on behalf of the authority in connection with that claim in all respects.

## **192 Service of notices, etc., by local authority**

- (1) Any documents to which this section applies may be served—
- (a) by being sent by post in a prepaid letter or delivered to or at the residence or place of business of the person to whom it is addressed:
 

Provided that in the case of a person employed on any ship or vessel it shall be delivered to some person on board thereof and connected therewith; or
  - (b) in the case of an incorporated company or body by being sent by post in a prepaid letter addressed to the secretary or clerk of the company or body at their registered or principal office or by delivering it to him at that office ; or
  - (c) where the notice or other document relates to premises and the owner thereof resides beyond the area of the local authority, by being sent by post in a prepaid letter or delivered to or at the place of business of his known factor or agent or the person drawing the rents of the premises; or
  - (d) where the notice or other document relates to premises and the local authority are unable after reasonable inquiry to ascertain the address of the person upon whom it should be served, by addressing it to him—
    - (i) by name, if his name is known ; or
    - (ii) if his name is not known, by the description of " owner " or " occupier " of the premises (naming them) to which it relates;
 

and by delivering it to some person on the premises, or if there is no person on the premises to whom it can be delivered, by affixing it or a copy thereof to some conspicuous part of the premises.
- (2) Service of a copy of a document to which this section applies shall be deemed to be service of the principal document.
- (3) Service of any document to which this section applies may be proved by a certificate under the hand of the person who posted or delivered or affixed the same attested by one witness who was present at such posting, delivery or affixing.
- (4) Where any document to which this section applies relates to premises and the local authority are unable after reasonable inquiry to ascertain the name and address of the owner of the premises, then if there is no known factor, agent or person drawing the rents, such document may be addressed to the occupier or any of the occupiers of the premises, and such occupier shall in all respects take burden for the owner, so however that he shall not be liable to make payment under this section of any sum in excess of the sum which he is liable to pay in respect of rent of the premises nor shall he be required to make payment of any sum before the sum in respect of rent is due and payable, and any sum so paid by the occupier shall be deemed to be a payment to account of rent.
- (5) For the purpose of enabling any document to be served on the owner of any premises, the local authority may by notice in writing require the occupier of the premises to state the name and address of the owner thereof, and if the occupier refuses or wilfully neglects to do so, or wilfully misstates the name and address of the owner, he shall, unless in the case of a refusal he shows cause to the satisfaction of the court for his refusal, be liable on summary conviction in respect of each offence to a fine not exceeding £20.

- (6) This section applies to any notice, order or other document which is required or authorised by an enactment (including any enactment in this Act) or any instrument made under an enactment to be served by or on behalf of a local authority, or by an officer of a local authority, not being a document to the service of which the provisions of some enactment other than this section or some instrument made under an enactment are applicable.

### **193 Authentication of documents**

- (1) Any notice, order or other document which a local authority are authorised or required by or under any enactment (including any enactment in this Act) to give, make or issue may be signed on behalf of the authority by the proper officer of the authority, and may be withdrawn by a notice similarly authenticated.
- (2) Any document purporting to bear the signature of the proper officer of the authority shall be deemed, until the contrary is proved, to have been duly given, made or issued by the authority of the local authority. In this subsection the word "signature" includes a facsimile of a signature by whatever process reproduced.
- (3) Where any enactment or instrument made under an enactment makes, in relation to any document or class of documents, provision with respect to the matters dealt with by one of the two foregoing subsections, that subsection shall not apply in relation to that document or class of documents.

### **194 Execution of deeds by local authority and use of seal**

- (1) Save as otherwise provided in this Act, a deed to which a local authority are a party shall be held to be validly executed on behalf of the authority if it is sealed with the common seal of the council and subscribed on behalf of the council by two members of the council and the proper officer of the council, whether attested by witnesses or not, or if it is executed in such other manner as may be provided in a local Act.
- (2) The seal of a council may be affixed to a deed or other document if authority to affix the seal to the deed or other document has been given at a meeting of the council, or has been given otherwise in accordance with standing orders of the council:

Provided that a person entering into any transaction with any such council shall not be bound to inquire whether authority to affix the seal has been given in accordance with the provisions of this subsection, and all deeds executed by such a council if otherwise valid shall have full force and effect notwithstanding that such authority may not have been given.

### **195 Public notices**

Save as otherwise expressly provided, a public notice required to be given by a local authority shall be given—

- (a) by displaying the notice conspicuously at or near the principal entrance to the offices of the authority; and
- (b) by posting the notice in some conspicuous place or places within the area of the authority or by inserting a copy of the notice in a newspaper circulating in the area of the authority; and

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- (c) in such other manner, if any, as appears to the authority to be desirable for giving publicity to the notice.

#### **196 Misnomers, etc., not to affect validity of notices, etc.**

No misnomer or inaccurate description of any person or place, omission, mistake or informality in any notice or other document under or for the purposes of this Act shall affect the full operation of the notice or other document if the person or place mentioned is so designated as to be commonly understood, and such omission, mistake or informality is not such as to defeat the object of the notice or other document or cause substantial injustice to any person affected thereby.

#### **197 Inspection and deposit of documents**

- (1) The minutes of—
  - (a) the proceedings of a local authority,
  - (b) the proceedings of any committee appointed by a local authority so far as such proceedings relate to any of the authority's functions under the National Assistance Act 1948, the Education (Scotland) Acts 1939 to 1973, the National Health Service (Scotland) Act 1972 or the Town and Country Planning (Scotland) Act 1972, and
  - (c) the proceedings of any joint committee or joint board established for the purpose of performing all or any of the functions of two or more local authorities under any of the Acts mentioned in paragraph (b) above,
 shall be open to the inspection of any local government elector for the area of the local authority or, in the case of a joint committee or joint board, the area of any of the local authorities represented on the joint committee or joint board, at all reasonable hours on payment of a fee not exceeding 10p, and any such local government elector may make a copy thereof or an extract therefrom.
- (2) In any case in which a document of any description is deposited with the proper officer of a local authority, pursuant to the standing orders of either House of Parliament or to any enactment or instrument, the proper officer shall receive and retain the document in the manner and for the purposes directed by the standing orders or enactment or instrument, and shall make such notes or endorsements on, and give such acknowledgements and receipts in respect of, the document as may be so directed.
- (3) Subject to any provisions to the contrary in any other enactment or instrument, a person interested in any such map, plan or other document as is mentioned in subsection (2) above, may, at all reasonable hours, inspect and make copies thereof or abstracts therefrom on payment to the person having custody thereof of a fee not exceeding 10p for every such inspection, and of a further fee not exceeding 10p for every hour during which such inspection continues after the first hour.
- (4) If a person having the custody of any such document—
  - (a) obstructs any person entitled to inspect the document or to make a copy thereof or extract therefrom in inspecting the document or making a copy or extract,
  - (b) refuses to give copies or extracts to any person entitled to obtain copies or extracts,
 he shall be liable on summary conviction to a fine not exceeding £20.
- (5) A local authority may remit any fee chargeable under this section.

## **198 Photographic copies of documents**

- (1) Subject to subsection (3) below, any requirement imposed by any enactment that a local authority shall keep a document of any description shall be satisfied by their keeping a photographic copy of the document.
- (2) Subject to subsection (3) below, any requirement imposed by any enactment that a document of any description in the custody or under the control of a local authority shall be made available for inspection shall be satisfied by their making available for inspection a photographic copy of the document.
- (3) A photographic copy of a document in colour where the colours are relevant to the interpretation of the document shall not suffice for the purposes of this section unless it so distinguishes between the colours as to enable the document to be interpreted.

## **199 Reports and returns**

Every local authority and every joint committee or joint board shall, within such period as the appropriate Minister may require, make to that Minister such reports and returns and give him such information with respect to their functions as the Minister may require, or as may be required by either House of Parliament.

## **200 Records**

- (1) Where records of an existing local authority relate exclusively to property vested in or functions transferred to a new local authority the records shall vest in that new local authority.
- (2) Records of parochial boards and parish councils held by an existing local authority shall vest in the regional or islands council which succeeds that authority.
- (3) All other records held by a county council shall vest in the regional or islands council which succeeds the county council, and all such records held by any other existing local authority shall vest in the islands or district council which succeeds that authority.
- (4) Where the area of an existing local authority is divided among two or more new local authorities, the records shall, subject to the foregoing provisions of this section, vest in the new local authority whose area includes, according to the latest census (not being a sample census), the greater part of the population of the existing local authority.
- (5) Where records relating to property or functions vested in or transferred to a local authority have vested in another local authority that other local authority shall make the records available for consultation by the former authority.
- (6) Any dispute as to the vesting of records shall be referred to and determined by the Secretary of State, whose decision in the matter shall be final.
- (7) A local authority shall make proper arrangements with respect to any records which belong to or are in the custody of the authority or any of their officers, and may dispose of records which they do not consider worthy of preservation.
- (8) A local authority may transmit any of their records to the Keeper of the Records of Scotland for safe custody, and accordingly in section 5(2) of the Public Records (Scotland) Act 1937 (transfer of records to Keeper), for the words from " the town " to " any other " there shall be substituted the word " any ".

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- (9) A regional council may deposit any of their records with a district council within their region, and a district council may deposit any of their records with the regional council within whose region their area is situate or with any other district council within the same region.
- (10) A local authority may permit persons, with or without charge, and subject to such conditions as the authority may determine, to inspect their records and to make or obtain copies thereof.
- (11) In this section—
- (a) " records" includes charters, deeds, minutes, accounts and other documents, and any other records of whatever form which convey information, but does not include records which are the property of the Registrar General of Births, Deaths and Marriages for Scotland ; and
  - (b) "local authority" includes a joint board, joint committee, river purification board and a water board.