



Local Government (Scotland) Act 1973

1973 CHAPTER 65

PART XII

MISCELLANEOUS, GENERAL AND TRANSITIONAL

Miscellaneous

211 Provision for default of local authority.

- (1) If a complaint is made to the Secretary of State or any appropriate Minister that a local authority have failed to do what is required of them by or under this Act or any other enactment or the Secretary of State or that Minister is of opinion that an investigation should be made as to whether a local authority have so failed, he may cause a local inquiry to be held into the matter.
- (2) If after such a local inquiry the Secretary of State or appropriate Minister is satisfied that there has been such a failure on the part of the authority in question, he may make an order declaring the authority to be in default and directing them for the purpose of remedying the default to take such steps and within such time or times as may be specified in the order.

[^{F1}(2A) If the Secretary of State or appropriate Minister—

- (a) is about to make an order under subsection (2) above; and
 - (b) is satisfied that the failure to which the order relates has continued or recurred,
- he may, in that order and without any local inquiry, declare the authority to be in default in respect of the continuance or recurrence of the failure and direct them for the purpose of remedying the default to take such steps and within such time or times as may be specified in the order.

(2B) The Secretary of State or appropriate Minister may, in an order under subsection (2) above, notify the local authority that any continuance or recurrence of the failure in respect of which the authority have been declared to be in default happening after the date of the order may be made the subject of an application to the Court of Session under subsection (3A) below.]

Changes to legislation: Local Government (Scotland) Act 1973, Section 211 is up to date with all changes known to be in force on or before 18 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

- (3) If the authority declared to be in default by such an order fail to comply with any requirement thereof within the time limited thereby for compliance with that requirement, the Court of Session may, on the application of the Lord Advocate on behalf of the Secretary of State or appropriate Minister, order specific performance of the functions in respect of which there has been default, and do otherwise as to the court appears to be just.

[^{F2}(3A) If—

- (a) a local authority have been notified under subsection (2B) above; and
- (b) there has been any such continuance or recurrence as is mentioned in that subsection of the failure to which the notification relates,

the Court of Session may, on the application of the Lord Advocate on behalf of the Secretary of State or appropriate Minister, order specific performance of the functions in respect of which there has been such continuance or recurrence of the failure and do otherwise as to the court appears to be just.]

- (4) Nothing in this section shall affect the provisions of any other enactment relating to the enforcement of a statutory duty whether under that enactment or otherwise.

[^{F3}(5) The provisions of this section shall apply to a joint board as they apply to a local authority.]

[^{F4}(6) In this section any reference to an enactment includes a reference to the Transport (Scotland) Act 2001 (asp 2).]

Textual Amendments

- F1** S. 211(2A)(2B) inserted by Local Government and Housing Act 1989 (c. 42, SIF 81:2), s. 159(2)
F2 S. 211(3A) inserted by Local Government and Housing Act 1989 (c. 42, SIF 81:2), s. 159(3)
F3 S. 211(5) inserted (1.4.1996) by 1994 c. 39, s. 21 (with s. 7(2)); S.I. 1996/323, art. 4(1)(a), Sch. 1
F4 S. 211(6) inserted (1.7.2001) by 2001 asp 2, s. 83, Sch. 2 para. 2 (with s. 66); S.S.I. 2001/132 art. 2(3), Sch. Pt II

Modifications etc. (not altering text)

- C1** S. 211 extended by Housing (Scotland) Act 1987 (c. 26, SIF 61), ss. 78(4), 335

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Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- Sch. 7 para. 7(3) inserted by [1989 c. 42 Sch. 11 para. 36](#)