



# Local Government (Scotland) Act 1975

## 1975 CHAPTER 30

An Act to make further provisions as respects local government finance in Scotland; to restrict certain grants under the Transport Act 1968; to make provision for the appointment and functions of a Commissioner for the investigation of administrative action taken by or on behalf of local and other authorities; to make further provision as respects social work; to make certain minor amendments of or consequential on the Local Government (Scotland) Act 1973; and for connected purposes. [8th May 1975]

### Extent Information

**E1** Act extends to Scotland with exception see [s. 39\(6\)](#)

### Modifications etc. (not altering text)

- C1** Act explained by [National Heritage \(Scotland\) Act 1985 \(c. 16, SIF 78\)](#), [s. 20\(1\)\(3\)](#)
- C2** Act modified by [Dockyard Services Act 1986 \(c. 52, SIF 58\)](#), [s. 3\(1\)\(c\)](#) and by [Legal Aid \(Scotland\) Act 1986 \(c.47, SIF 77:2\)](#), [s. 1](#), [Sch. 1 para. 1\(4\)](#)
- C3** Act applied (1.4.1992) by [Valuation and Rating \(Scotland\) Act 1956 \(c. 60\)](#), [s. 22\(3\)](#) (as substituted by [Local Government Finance Act 1992 \(c. 14\)](#), [s. 117\(1\)](#), [Sch. 13 para. 10](#) (with [s. 118\(1\)\(2\)\(4\)](#)); [S.I. 1992/818](#), [art. 2\(a\)](#)).
- C4** Act applied (1.4.1993) by [Local Government Finance Act 1992 \(c. 14\)](#), [s. 111\(9\)](#), (with [s. 118\(1\)\(2\)\(4\)](#)); [S.I. 1993/575](#), [art. 2\(a\)](#).  
Act modified (4.1.1995) by [1994 c. 39, s. 49\(3\)](#) (with [ss. 7\(2\)](#), [128\(8\)](#)); [S.I. 1994/2850](#), [art. 3\(a\)](#), [Sch. 2](#)

*Status:* Point in time view as at 06/04/1995. This version of this Act contains provisions that are not valid for this point in time.

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**PART I**

FINANCE

*Valuation*

**1 The valuation roll and revaluation.**

- (1) The assessor for each valuation area shall, in respect of each year of revaluation, make up a valuation roll in the prescribed form which shall come into force on the first day of the year of revaluation.
- (2) Subject to any alterations to the valuation roll made under this section and section 2 of this Act, every valuation roll (including every valuation roll in force for the year 1975-76 other than the roll made up for that year by the Assessor of Public Undertakings (Scotland) (hereinafter in this Act referred to as “the Assessor”)) shall remain in force until it is superseded by a new valuation roll.
- (3) The assessor for each valuation area shall—
  - (a) make such arrangements as may be necessary to secure the valuation or revaluation of all lands and heritages in the area in respect of each year of revaluation in accordance with the Valuation Acts; . . . <sup>F1</sup>
  - (b) submit such arrangements to the Secretary of State who may, after consultation with the Advisory Council, approve the same with or without modifications; and
  - (c) submit to the Advisory Council an annual report on the progress of valuation and revaluation in the area and send a copy of such report to the valuation authority for the area.
- (4) Subject to section 35 of the <sup>M1</sup>Lands Valuation (Scotland) Act 1854, the assessor for each valuation area shall retain the valuation roll and shall deliver sufficient copies thereof to the rating authority for the area.
- (5) Every rating authority shall, when copies of the valuation roll have been delivered to them, cause copies to be open to inspection until the roll ceases to be in force during ordinary business hours at their office or at such other convenient place or places as they may appoint.
- (6) The assessor for any valuation area may as respects that area, at any time after the valuation roll has been made up and before the roll has come into force, alter the roll—
  - (a) by entering therein any lands and heritages which were in existence at the time when the roll was made up and which, owing to error, were not included therein;
  - (b) by entering therein any lands and heritages which have come into existence or occupancy since the roll was made up;
  - (c) to give effect to any alteration in the value of any lands and heritages which is due to a material change of circumstances;
  - (d) to correct any error of measurement, survey or classification or any clerical or arithmetical error in any entry therein;
  - (e) by entering therein any lands and heritages which the Assessor has directed him under section 5 of this Act so to enter.

(6A) . . . . . <sup>F2</sup>

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- (7) In this section “Advisory Council” has the same meaning as in section 3 of the <sup>M2</sup>Valuation and Rating (Scotland) Act 1956; . . . <sup>F3</sup>

#### Textual Amendments

- F1** Proviso repealed by [Abolition of Domestic Rates Etc. \(Scotland\) Act 1987 \(c. 47, SIF 81:2\)](#), s. 34, [Sch. 6](#)
- F2** [S. 1\(6A\)–\(6E\)](#) repealed by [Abolition of Domestic Rates Etc. \(Scotland\) Act 1987 \(c. 47, SIF 81:2\)](#), s. 34, [Sch. 6](#)
- F3** Definitions repealed by [Abolition of Domestic Rates Etc. \(Scotland\) Act 1987 \(c. 47, SIF 81:2\)](#), s. 34, [Sch. 6](#)

#### Modifications etc. (not altering text)

- C5** [S. 1](#) excluded by [Valuation and Rating \(Exempted Classes\) \(Scotland\) Act 1976 \(c. 64, SIF 103:2\)](#), s. [2\(2\)](#)
- C6** [S. 1\(2\)](#) excluded by [S.I. 1983/120](#), [art. 4](#) and [1983/534](#), art. 3

#### Marginal Citations

- M1** [1854 c. 91](#).
- M2** [1956 c. 60](#).

## 2 Alterations to valuation roll which is in force.

- (1) Subject to subsection (2) below, the assessor for any valuation area shall, as respects that area, at any time while the valuation roll is in force, alter the roll—
- (a) by entering therein any lands and heritages which were in existence at the time when the roll was made up and which, owing to error, were not included therein [<sup>F4</sup>or which, being still in existence, have been erroneously deleted from the roll under paragraph (h) below];
  - (b) by entering therein any lands and heritages which have come into existence or occupancy since the roll was made up;
  - (c) by entering therein any lands and heritages—
    - (i) upon their ceasing to be liable to be valued or revalued by the Assessor under any enactment,
    - (ii) upon their coming within the assessor’s valuation area as a result of a change of the boundaries of valuation areas;
  - (d) to give effect to any alteration in the value of any lands and heritages which is due to a material change of circumstances;
  - (e) to give effect to any alteration in the net annual value or the rateable value of any lands and heritages in consequence of [<sup>F5</sup>-(i)]the making of an order . . . <sup>F6</sup>, [<sup>F7</sup>under] section 1(1) of the <sup>M3</sup>Valuation for Rating (Scotland) Act 1970; [<sup>F5</sup>or (ii) the making of regulations under section 42 of the <sup>M4</sup>Lands Valuation (Scotland) Act 1854;]
  - [<sup>F8</sup>(ee) to give effect to any decision following upon an appeal or complaint under the Valuation Acts;]
  - (f) to correct any error of measurement, survey or classification or any clerical or arithmetical error in any entry therein;
  - (g) by entering therein any lands and heritages which the Assessor has directed him under section 5 of this Act so to enter;

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- (h) by deleting therefrom, with effect from such date as the assessor thinks fit, any lands and heritages which cease to exist or which, for any other reason, are no longer appropriate for inclusion in the roll

[<sup>F9</sup>and may so alter the roll to give effect to any change in the proprietorship, tenancy or occupancy of any lands and heritages.]

(2) Any alteration to the roll—

- (a) consisting of an entry made under subsection (1)(a) above, shall have effect only as from the beginning of the year in which the entry is made;
- (b) consisting of an entry made under subsection (1)(b) above, shall have effect only as from the date when the lands and heritages to which the entry relates came into existence or occupancy, or as from the beginning of the year in which the entry is made, whichever is the later;
- (c) made under subsection (1)(d) above, shall . . . <sup>F10</sup> have effect only as from the date of the event by reason of which the alteration is made or as from the beginning of the year in which the alteration is made, whichever is the later:

Provided that if the proprietor, tenant or occupier of the lands and heritages has intimated in writing to the assessor the event by reason of which a reduction in value of the lands and heritages is made, or on appeal the value in the relevant entry has been reduced on the ground of a material change of circumstances, the alteration in the roll shall have effect as from the date of the event or as from the beginning of the year in which intimation of the event is made, whichever is the later, or, as the case may be, as from the date of the material change of circumstances on which the appeal is grounded or as from the beginning of the year in which the appeal is lodged, whichever is the later;

[<sup>F11</sup>(cc) made under subsection (1)(ee) above following upon an appeal by virtue of section 3(2A) of this Act by a person who has become the proprietor, tenant or occupier of lands and heritages shall have effect only as from the date when he became such proprietor, tenant or occupier;]

- (d) consisting of such a correction as is referred to in subsection (1)(f) above shall [<sup>F12</sup>, subject to section 20 of the <sup>M5</sup>Local Government (Financial Provisions) (Scotland) Act 1963,] have effect only as from the date when the erroneous entry which is so corrected was made in the role or as from the beginning of the year in which the correction is made, whichever is the later;

and the date on which any alteration in the roll made under this section comes into effect shall be stated in the roll.

- (3) Where, at any time before an appeal or complaint against an entry in the valuation roll is determined by a valuation appeal committee [<sup>F13</sup>or by the Lands Tribunal for Scotland], the parties reach agreement as to what should be done about the entry, the assessor may without further procedure make such alteration in the roll as is necessary to give effect to the agreement.

- (4) . . . . . <sup>F14</sup>

#### Textual Amendments

**F4** Words added by [Rating and Valuation \(Amendment\) \(Scotland\) Act 1984 \(c. 31, SIF 103:2\)](#), s. 21, [Sch.2 para. 13\(1\)](#)

**F5** Words in s. 2(1)(e) inserted (1.4.1995) by 1994 c. 39, s. 180(1), [Sch. 13 para. 100\(2\)](#) (with s. 128(2)); [S.I. 1995/3150, art. 4\(c\)](#)

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- F6** Words repealed by [Abolition of Domestic Rates Etc. \(Scotland\) Act 1987 \(c. 47, SIF 81:2\)](#), s. 34, **Sch. 6**
- F7** Word in s. 2(1)(e) substituted (1.4.1992) by [Local Government Finance Act 1992 \(c. 14\)](#), s. 117(1), **Sch. 13 para. 41** (with s. 118(1)(2)(4)); S.I. 1992/818, **art. 2(a)**.
- F8** S. 2(1)(ee) inserted by [Rating and Valuation \(Amendment\) \(Scotland\) Act 1984 \(c. 31, SIF 103:2\)](#), s. 21, **Sch. 2 para. 13(2)**
- F9** Words inserted by [Rating and Valuation \(Amendment\) \(Scotland\) Act 1984 \(c. 31, SIF 103:2\)](#), s. 21, **Sch. 2 para. 13(3)**
- F10** Words (comprising s. 2(2)(c)(i) and part of (ii)) repealed by [Abolition of Domestic Rates Etc. \(Scotland\) Act 1987 \(c. 47, SIF 81:2\)](#), s. 34, **Sch. 6**
- F11** S. 2(2)(cc) inserted by [Rating and Valuation \(Amendment\) \(Scotland\) Act 1984 \(c. 31, SIF 103:2\)](#), s. 21, **Sch. 2 para. 14**
- F12** Words inserted by [Local Government \(Miscellaneous Provisions\) \(Scotland\) Act 1981 \(c. 23, SIF 81:2\)](#), **Sch. 3 para 32**
- F13** Words inserted by [Rating and Valuation \(Amendment\) \(Scotland\) Act 1984 \(c. 31, SIF 103:2\)](#), s. 21, **Sch. 2 para. 15**
- F14** S. 2(4) repealed by [Statute Law \(Repeals\) Act 1986 \(c. 12\)](#), s.1(1), **Sch. 1 Pt. VII**

#### Modifications etc. (not altering text)

- C7** S. 2 excluded by [Valuation and Rating \(Exempted Classes\) \(Scotland\) Act 1976 \(c. 64, S IF 103:2\)](#), s. 2(2)
- C8** S. 2(1) excluded by S.I. 1983/120, **art. 4** and 1983/534, art. 3
- C9** S. 2(1)(d) explained by [Lands Valuation Amendment \(Scotland\) Act 1982 \(c. 57, SIF 103:2\)](#), s. 1(4)
- C10** S. 2(1)(2) modified by S.I. 1979/951, **arts. 3, 10(a)**
- C11** S. 2(1) modified (for the financial years 1993-94 and 1994-95) by S.I. 1994/911, **arts. 1(2)**, 7(3)  
 S. 2(1) modified (for the financial year 1995-96) by S.I. 1995/366, **arts. 1**, 7(2)  
 S. 2(1) modified (for the financial year 1994-95) by S.I. 1994/913, **arts. 1(2)**, 7(2)  
 S. 2(1) modified (for the financial years 1995-96 to 1999-2000) by S.I. 1995/368, **arts. 1**, 9(3)  
 S. 2(1) modified (for the financial years 1995-96 to 1999-2000) by S.I. 1995/929, **arts. 1**, 9(3)  
 S. 2(1) modified (for the financial years 1995-96 to 1999-2000) by S.I. 1995/930, **arts. 1**, 9(3)  
 S. 2(1) modified (for the financial year 1994-95) by S.I. 1994/2071, **arts. 1(2)**, 9(3)  
 S. 2(1) modified (for the financial years 1995-96 to 1999-2000) by S.I. 1995/371, **arts. 1**, 9(2)  
 S. 2(1) modified (for the financial year 1994-95) by S.I. 1994/2073, **arts. 1(2)**, 8(3)  
 S. 2(1) modified (for the financial years 1995-96 to 1999-2000) by S.I. 1995/372, **arts. 1**, 8(2)  
 S. 2(1) modified (for the financial years 1995-96 to 1999-2000) by S.I. 1995/373, **arts. 1**, 10(3)  
 S. 2(1) modified (for the financial year 1994-95) by S.I. 1994/2075, **arts. 1(2)**, 9(3)  
 S. 2(1) modified (for the financial years 1995-96 to 1999-2000) by S.I. 1995/369, **arts. 1**, 10(3)  
 S. 2(1) modified (for the financial years 1995-96 to 1999-2000) by S.I. 1995/370, **arts. 1**, 10(3)  
 S. 2(1) modified (for the financial year 1995-96) by S.I. 1995/367, **arts. 1**, 8(3) (which was revoked by S.I. 1995/3252, **art. 10**)  
 S. 2(1) modified (for the financial year 1994-95) by S.I. 1994/2080, **arts. 1(2)**, 9(3)  
 S. 2(1) modified (for the financial year 1994-95) by S.I. 1994/2081, **arts. 1(2)**, 9(3)
- C12** S. 2(1)(c) modified (for the financial years 1993-94 and 1994-95) by S.I. 1994/911, **arts. 1(2)**, 7(1)  
 S. 2(1)(c) modified (for the financial year 1995-96) by S.I. 1995/366, **arts. 1**, 7(1)  
 S. 2(1)(c) modified (for the financial year 1994-95) by S.I. 1994/913, **arts. 1(2)**, 7(1)  
 S. 2(1)(c) modified (for the financial years 1995-96 to 1999-2000) by S.I. 1995/368, **arts. 1**, 9(1)  
 S. 2(1)(c) modified (for the financial years 1995-96 to 1999-2000) by S.I. 1995/929, **arts. 1**, 9(1)  
 S. 2(1)(c) modified (for the financial years 1995-96 to 1999-2000) by S.I. 1995/930, **arts. 1**, 9(1)  
 S. 2(1)(c) modified (for the financial year 1994-95) by S.I. 1994/2071, **arts. 1(2)**, 9(1)  
 S. 2(1)(c) modified (for the financial years 1995-96 to 1999-2000) by S.I. 1995/371, **arts. 1**, 9(1)  
 S. 2(1)(c) modified (for the financial year 1994-95) by S.I. 1994/2073, **arts. 1(2)**, 8(1)  
 S. 2(1)(c) modified (for the financial years 1995-96 to 1999-2000) by S.I. 1995/372, **arts. 1**, 8(1)  
 S. 2(1)(c) modified (for the financial years 1995-96 to 1999-2000) by S.I. 1995/373, **arts. 1**, 10(1)

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- S. 2(1)(c) modified (for the financial year 1994-95) by S.I. 1994/2075, arts. 1(2), 9(1)
- S. 2(1)(c) modified (for the financial years 1995-96 to 1999-2000) by S.I. 1995/369, arts. 1, 10(1)
- S. 2(1)(c) modified (for the financial years 1995-96 to 1999-2000) by S.I. 1995/370, arts. 1, 10(1)
- S. 2(1)(c) modified (for the financial year 1995-96) by S.I. 1995/367, arts. 1, 8(1) (which was revoked by S.I. 1995/3252, art. 10)
- S. 2(1)(c) modified (for the financial year 1994-95) by S.I. 1994/2080, arts. 1(2), 9(1)
- S. 2(1)(c) modified (for the financial year 1994-95) by S.I. 1994/2081, arts. 1(2), 9(1)
- C13** S. 2(1)(d) modified (for the financial years 1993-94 and 1994-95) by S.I. 1994/911, arts. 1(2), 7(2)
- S. 2(1)(d) modified (for the financial years 1995-96 to 1999-2000) by S.I. 1995/368, arts. 1, 9(2)
- S. 2(1)(d) modified (for the financial years 1995-96 to 1999-2000) by S.I. 1995/929, arts. 1, 9(2)
- S. 2(1)(d) modified (for the financial years 1995-96 to 1999-2000) by S.I. 1995/930, arts. 1, 9(2)
- S. 2(1)(d) modified (for the financial year 1994-95) by S.I. 1994/2071, arts. 1(2), 9(2)
- S. 2(1)(d) modified (for the financial years 1995-96 to 1999-2000) by S.I. 1995/373, arts. 1, 10(2)
- S. 2(1)(d) modified (for the financial year 1994-95) by S.I. 1994/2073, arts. 1(2), 8(2)
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- S. 2(1)(d) modified (for the financial years 1995-96 to 1999-2000) by S.I. 1995/369, arts. 1, 10(2)
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- S. 2(1)(d) modified (for the financial year 1994-95) by S.I. 1994/2080, arts. 1(2), 9(2)
- S. 2(1)(d) modified (for the financial year 1994-95) by S.I. 1994/2081, arts. 1(2), 9(2)
- C14** S. 2(2)(a) modified (for the financial years 1993-94 and 1994-95) by S.I. 1994/911, arts. 1(2), 7(4)
- S. 2(2)(a) modified (for the financial year 1995-96) by S.I. 1995/366, arts. 1, 7(3)
- S. 2(2)(a) modified (for the financial years 1995-96 to 1999-2000) by S.I. 1995/370, arts. 1, 10(4)
- S. 2(2)(a) modified (for the financial years 1995-96 to 1999-2000) by S.I. 1995/371, arts. 1, 9(3)
- S. 2(2)(a) modified (for the financial years 1995-96 to 1999-2000) by S.I. 1995/372, arts. 1, 8(3)
- S. 2(2)(a) modified (for the financial years 1995-96 to 1999-2000) by S.I. 1995/373, arts. 1, 10(4)
- S. 2(2)(a) modified (for the financial years 1995-96 to 1999-2000) by S.I. 1995/368, arts. 1, 9(4)
- S. 2(2)(a) modified (for the financial years 1995-96 to 1999-2000) by S.I. 1995/369, arts. 1, 10(4)
- S. 2(2)(a) modified (for the financial years 1995-96 to 1999-2000) by S.I. 1995/929, arts. 1, 9(4)
- S. 2(2)(a) modified (for the financial years 1995-96 to 1999-2000) by S.I. 1995/930, arts. 1, 9(4)

#### Marginal Citations

- M3** 1970 c. 4.
- M4** 1854 c. 91.
- M5** 1963 c. 12.

### 3 Provisions supplementary to sections 1 and 2.

- (1) The assessor shall, upon making an alteration in the valuation roll under section 1(6) or 2(1) or (3) of this Act [<sup>F15</sup>or upon deleting lands and heritages therefrom in pursuance of section 1(2) of the <sup>M6</sup>Valuation and Rating (Exempted Classes) (Scotland) Act 1976], send to the rating authority a copy of the relevant entry in the roll or, as the case may be, notification of deletion of the relevant lands and heritages from the roll.
- (2) The assessor for each valuation area shall send to each person who is a proprietor, tenant or occupier of lands and heritages which are included in the valuation roll a notice in the prescribed form setting forth the details of the relevant entry in the roll (including such an entry as is referred to in subsection (1) above other than an entry made under section 1(6)(e) or 2(1)(g) of this Act); and any such person, not being a person who has reached agreement with the assessor as mentioned in section 2(3) of this Act as to what should be done about the entry, if he considers himself aggrieved

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by the entry, may appeal to the valuation appeal committee for the area in which the lands and heritages are situated or may obtain redress without the necessity of such appeal by satisfying the assessor that he has a well founded ground of complaint.

- [<sup>F16</sup>(2A) Where a person becomes the proprietor, tenant or occupier of lands and heritages which are included in the valuation roll he shall thereupon have the same right of appeal under subsection (2) above as he would have had if there had been sent to him the notice referred to in that subsection, except that the last date for lodging an appeal by virtue of this subsection shall be the last day of a period of six months beginning with the day upon which the person became the proprietor, tenant or occupier and all other time limits prescribed under the Valuation Acts in that regard shall have effect accordingly.
- (2B) The right of appeal conferred by subsection (2A) above may be exercised whether or not any previous proprietor, tenant or occupier of the lands and heritages had reached agreement with the assessor as mentioned in section 2(3) of this Act or had appealed or obtained redress under subsection (2) above.]
- (3) The assessor shall, upon altering the valuation roll by deleting lands and heritages therefrom, notify each person named in the roll as proprietor, tenant or occupier of those lands and heritages of the deletion.
- (4) Without prejudice to subsection (2) above, the proprietor, tenant or occupier of lands and heritages which are included in the valuation roll may at any time while the roll is in force appeal against the relevant entry but only on the ground that there has been a material change of circumstances since the entry was made or that there is such an error in the entry as is referred to in section 2(1)(f) of this Act; and, notwithstanding the definition of “material change of circumstances” as set out in section 37(1) of this Act, if in an appeal under this subsection on the ground of a material change of circumstances it is proved that there has been a change of circumstances which has materially reduced the extent to which beneficial occupation of the lands and heritages can be enjoyed, the appeal shall not be refused by reason only that the change of circumstances has not been proved to have affected the value of the lands and heritages to any specific extent.
- (5) Any person interested may at all reasonable times, free of charge, inspect and take copies of and extracts from any valuation roll prepared under the Valuation Acts and in the possession of the assessor; and an assessor shall, on an application made to him by any interested person, inform that person whether any entry in the valuation roll is subject to a pending appeal or complaint.

#### Textual Amendments

**F15** Words inserted by [Valuation and Rating \(Exempted Classes\) \(Scotland\) Act 1976 \(c. 64, SIF 103:2\)](#), **s. 1(3)**

**F16** [S. 3\(2A\)\(2B\)](#) inserted by [Rating and Valuation \(Amendment\) \(Scotland\) Act 1984 \(c. 31, SIF 103: 2\)](#), **s. 11**

#### Modifications etc. (not altering text)

**C15** [S. 3](#) extended by [S.I. 1983/120, art. 5](#) and [1983/534, art. 4](#)

**C16** [S. 3](#) extended by [Abolition of Domestic Rates Etc. \(Scotland\) Act 1987 \(c. 47, SIF 81:2, 103:2\)](#), **s. 2(7)**, **Sch. 1 Pt. 1 para. 14**

**C17** [S. 3](#) extended ([6.3.1992](#)) by [Local Government Finance Act 1992 \(c. 14\)](#), **s. 72(8)**, **Sch. 5 para. 11** (with [s. 118\(1\)\(2\)\(4\)](#)).

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- C18** S. 3(2) modified (for the financial year 1994-95) by S.I. 1994/2068, **arts. 1(2), 8(4)**  
 S. 3(2) modified (for the financial year 1994-95) by S.I. 1994/2071, **arts. 1(2), 9(4)**  
 S. 3(2) modified (for the financial year 1994-95) by S.I. 1994/2073, **arts. 1(2), 8(4)**  
 S. 3(2) modified (for the financial year 1994-95) by S.I. 1994/2074, **arts. 1(2), 9(4)**  
 S. 3(2) modified (for the financial year 1994-95) by S.I. 1994/2075, **arts. 1(2), 9(4)**  
 S. 3(2) modified (for the financial year 1995-96) by S.I. 1995/367, **arts. 1, 8(4)** (which was revoked by S.I. 1995/3252, **art. 10**)  
 S. 3(2) modified (for the financial year 1994-95) by S.I. 1994/2080, **arts. 1(2), 9(4)**  
 S. 3(2) modified (for the financial year 1994-95) by S.I. 1994/2081, **arts. 1(2), 9(4)**
- C19** S. 3(3) amended by **Rating (Caravan Sites) Act 1976 (c. 15, SIF 103:2), s. 4(1)**
- C20** S. 3(4) modified (for the financial years 1993-94 and 1994-95) by S.I. 1994/911, **arts. 1(2), 7(5)**  
 S. 3(4) modified (for the financial year 1994-95) by S.I. 1994/2068, **arts. 1(2), 8(5)**  
 S. 3(4) modified (for the financial year 1995-96 to 1999-2000) by S.I. 1995/368, **arts. 1, 9(5)**  
 S. 3(4) modified (for the financial year 1994-95) by S.I. 1994/2071, **arts. 1(2), 9(5)**  
 S. 3(4) modified (for the financial year 1994-95) by S.I. 1994/2073, **arts. 1(2), 8(5)**  
 S. 3(4) modified (for the financial year 1994-95) by S.I. 1994/2074, **arts. 1(2), 8(5)**  
 S. 3(4) modified (for the financial year 1994-95) by S.I. 1994/2075, **arts. 1(2), 9(5)**  
 S. 3(4) modified (for the financial years 1995-96 to 1999-2000) by S.I. 1995/369, **arts. 1, 10(5)**  
 S. 3(4) modified (for the financial years 1995-96 to 1999-2000) by S.I. 1995/370, **arts. 1, 10(5)**  
 S. 3(4) modified (for the financial years 1995-96 to 1999-2000) by S.I. 1995/373, **arts. 1, 10(5)**  
 S. 3(4) modified (for the financial years 1995-96 to 1999-2000) by S.I. 1995/929, **arts. 1, 9(5)**  
 S. 3(4) modified (for the financial years 1995-96 to 1999-2000) by S.I. 1995/930, **arts. 1, 9(5)**  
 S. 3(4) modified (for the financial year 1995-96) by S.I. 1995/367, **arts. 1, 8(5)** (which was revoked by S.I. 1995/3252, **art. 10**)  
 S. 3(4) modified (for the financial year 1994-95) by S.I. 1994/2080, **arts. 1(2), 9(5)**  
 S. 3(4) modified (for the financial year 1994-95) by S.I. 1994/2081, **arts. 1(2), 9(5)**

#### Marginal Citations

**M6** 1976 c. 64.

VALID FROM 19/05/1997

#### [<sup>F17</sup>3A Assessor's powers of entry for valuation purposes.

The assessor shall be entitled at any reasonable time of the day, on giving not less than twenty-four hours previous notice in writing to the occupier, to enter, survey and value for the purposes of the Valuation Acts any lands and heritages within the area for which he acts as assessor, and if any person refuses to admit the assessor to enter any lands and heritages or obstructs him in making his survey or valuation he shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale.]

#### Textual Amendments

**F17** S. 3A inserted (19.5.1997) by 1997 c. 29, s. 33(1), **Sch. 3 para. 14**; S.I. 1997/1097, **art. 3(c)**



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#### 4 Valuation appeal committees.

- (1) For the purpose of hearing and determining appeals and complaints under the Valuation Acts, a committee or committees, each of which is to be known as a valuation appeal committee, shall be constituted for each valuation area in accordance with a scheme (“the model scheme”) made by the Secretary of State.
- (2) A valuation appeal committee shall consist of members of a local valuation panel constituted in accordance with the model scheme and members of the panel shall be appointed by the sheriff after consultation with such persons as he thinks fit.
- (3) The model scheme may include provision with respect to—
  - (a) fixing the maximum and minimum number of members of a local valuation panel and the termination of their appointment;
  - (b) the appointment of—
    - (i) one of those members as chairman of the panel,
    - (ii) such number of members as the sheriff considers necessary as deputy chairmen thereof, and
    - (iii) a secretary and, if the sheriff considers it necessary, an assistant secretary or assistant secretaries of the panel;
  - (c) fixing the number of valuation appeal committees, the maximum and minimum number of members of such a committee and specifying the circumstances in which such maximum number may be exceeded;
  - (d) the manner in which members of a valuation appeal committee are to be selected from members of the panel;
  - (e) any other matter as appears to the Secretary of State to be necessary or expedient for the purpose of the administration of the model scheme in any valuation area.
- (4) The remuneration and allowances to be paid to the secretary and any assistant secretary of the panel and their conditions of employment shall be such as may be agreed between the valuation authority and the sheriff or, failing agreement, as may be determined by the Secretary of State.
- (5) All expenses incurred by a local valuation panel or a valuation appeal committee shall be defrayed by the valuation authority.
- (6) All members of a local valuation panel shall reside or be engaged in business or be employed in the valuation area; and no person appointed as the secretary or an assistant secretary of a panel shall be an officer of a local authority or shall by himself or by any partner or assistant appear before a valuation appeal committee for that area.
- (7) A valuation authority may pay reasonable subscriptions, whether annually or otherwise, to the funds of any association of members or officers of local valuation panels or valuation appeal committees formed for the purpose of consultation as to the common interests of those panels or committees and the discussion of matters relating to valuation.
- [<sup>F18</sup>(7A) There shall be paid to members of a valuation appeal committee and to members of a local valuation panel such allowances as may be determined by the Secretary of State.]
- (8) The model scheme shall be contained in an order and the scheme may with the consent of the Secretary of State be varied as respects any valuation area by the valuation

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authority; and a statutory instrument containing an order under this subsection shall be subject to annulment in pursuance of a resolution of either House of Parliament.

- (9) The provisions of the Valuation Acts with regard to appeals and complaints shall, with any necessary modifications, apply to a committee constituted under this section in like manner as they applied before 16th May 1957 to a court of appeal constituted under those Acts.
- (10) In this section “sheriff” means the sheriff principal and, in the case of a valuation area situated in more than one sheriffdom, means the sheriff principal of such one of those sheriffdoms as the Secretary of State may direct.

**Textual Amendments**

**F18** S. 4(7A) inserted (*prosp.*) by [Local Government and Housing Act 1989 \(c. 42, SIF 81:2\)](#), ss. 194(1), 195(2), [Sch. 11 para. 43](#)

**5 Valuation of public undertakings.**

- (1) The Assessor shall—
  - (a) in respect of each year of revaluation value or revalue all lands and heritages which he is required under any enactment to value;
  - (b) value any lands and heritages which—
    - (i) were in existence when he made his valuation under paragraph (a) above and which, owing to error, were not included in that valuation and which he is required under any enactment to value,
    - (ii) have come into existence since he made his valuation under paragraph (a) above and which he is required under any enactment to value,
    - (iii) were in existence when he made his valuation under paragraph (a) above but which by or under an enactment have first fallen to be valued by the Assessor since he made such valuation;
  - (c) .....

- (2) The Assessor shall direct the assessor for any valuation area (“the local assessor”) containing any lands and heritages which the Assessor has valued or revalued under subsection (1) above to enter those lands and heritages in the valuation roll:

Provided that, where by reason of a material change of circumstances or in consequence of the making of an order under section 10(2) of the <sup>M7</sup>Local Government (Financial Provisions) (Scotland) Act 1963 [<sup>F20</sup>or the doing of anything under Schedule 2 to the Local Government (Scotland) Act 1966 (valuation of water undertakings) or under any order under section 6 of the Act] there has been an alteration in the rateable value of any lands and heritages referred to in this subsection after they have been entered in the valuation roll, the Assessor shall give a further direction to the local assessor to enter the altered value of such lands and heritages in the valuation roll.

- (3) Any direction under this section shall state the rateable value of the lands and heritages to which it relates and give such other particulars as may be prescribed.
- (4) Any entry made in the valuation roll—

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- (a) where the valuation has been made under subsection (1)(b)(i) . . . <sup>F21</sup> above, shall have effect only as from the beginning of the year in which the entry is made;
  - (b) where the valuation has been made under subsection (1)(b)(ii) . . . <sup>F21</sup> above, shall have effect only as from the date when the lands and heritages to which the entry relates came into existence or as from the beginning of the year in which the entry is made, whichever is the later;
  - (c) where the valuation has been made under subsection (1)(b)(iii) . . . <sup>F21</sup> above, shall have effect only as from the coming into effect of the enactment by or under which the Assessor is required to value the lands and heritages, or as from the beginning of the year in which the entry is made, whichever is the later;
  - (d) in pursuance of a further direction given under the proviso to subsection (2) above, shall have effect only as from the date of the event by reason of which the further direction is given or as from the beginning of the year in which such direction is given, whichever is the later.
- (5) Without prejudice to section 24 of the <sup>M8</sup>Lands Valuation (Scotland) Act 1854 (appeal against valuation as contained in direction) and subject to section 26 of that Act (right of appeal to be forfeited where refusal to answer call by Assessor for books and writings, etc.), the proprietor, tenant or occupier of lands and heritages which are included in the valuation roll in consequence of a direction under this section may at any time while the roll is in force appeal to the Lands Valuation Appeal Court against the entry in the roll but only on the ground that there has been a material change of circumstances affecting the value of the lands and heritages since the entry was made:
- Provided that appeal under this subsection shall be competent only where the proprietor, tenant or occupier has given notice in writing to the Assessor before lodging the appeal of the material change of circumstances.
- (6) Notwithstanding anything in any enactment, no person may complain or appeal to a valuation appeal committee against an entry in the valuation roll made in consequence of a direction under this section.
- (7) The Secretary of State may make regulations providing for—
- (a) the payment of remuneration, pensions, allowances, gratuities to, or transfer values in respect of, the Assessor and his clerks and other officers, and the manner in which such payment is to be financed;
  - (b) the terms and conditions of employment of the Assessor and his clerks and other officers;
  - (c) the amendment or repeal, with or without savings, of any enactment which is inconsistent with or superseded by the regulations.
- (8) A statutory instrument containing regulations under subsection (7) above shall be subject to annulment in pursuance of a resolution of either House of Parliament.

#### Textual Amendments

**F19** S. 5(1)(c) repealed by Statute Law (Repeals) Act 1986 (c. 12), s. 1(1), **Sch. 1 Pt. VII**

**F20** Words inserted by Rating and Valuation (Amendment) (Scotland) Act 1984 (c. 31, SIF 103:2), s. 21, **Sch. 2 para. 16**

**F21** Words repealed by Statute Law (Repeals) Act 1986 (c. 12), s. 1(1), **Sch. 1 Pt. VII**

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#### Modifications etc. (not altering text)

**C21** S. 5 modified by S.I. 1978/1173, art. 7, 1978/1174, art. 8, 1978/1175, art. 8, 1978/1176, art. 8 and 1979/951, arts. 3, 10(a)

**C22** S. 5(2) excluded by Valuation and Rating (Exempted Classes) (Scotland) Act 1976 (c. 64, SIF 103:2), s. 2(2)

#### Marginal Citations

**M7** 1963 c. 12.

**M8** 1854 c. 91.

### [<sup>F22</sup>6 Valuation by formula of certain lands and heritages.

[ In the case of such lands and heritages as may be prescribed or of any class or  
<sup>F23</sup>(1) description of such lands and heritages as may be prescribed, the Secretary of State may by order provide that their rateable values or the aggregate amount of their rateable values shall be—

(a) such as is prescribed; or

(b) such as is determined in accordance with prescribed rules]

[<sup>F24</sup>and, for the purposes of this subsection, “class or description” of lands and heritages includes lands and heritages, or classes of lands and heritages, falling within such geographical area as may be prescribed.]

[ The Secretary of State may by order provide that the non-domestic water rate shall  
<sup>F25</sup>(1A) not be leviable in respect of formula valued lands and heritages or of such formula valued lands and heritages or of such class or description of formula valued lands and heritages as may be prescribed for the purposes of this subsection.

In this subsection, “formula valued lands and heritages” are lands and heritages which have, or lands and heritages of a class or description which has, been prescribed for the purposes of subsection (1) above.]

(2) A rateable value or aggregate amount—

(a) prescribed under; or

(b) determined by virtue of,

an order under this section may be apportioned among local authorities in such manner as may be specified in the order.

(3) An order under this section applying to any lands and heritages or any class or description of such lands and heritages may provide for—

(a) determining a rateable value or aggregate amount by the application of different methods of valuation;

(b) apportioning a rateable value or aggregate amount by the application of different manners of apportionment,

to different parts of the lands and heritages.

(4) Before making an order under this section the Secretary of State shall consult with such associations of local authorities, or of persons carrying on undertakings, as appear to him to be concerned and with any local authority, person or association of persons with whom consultation appears to him to be desirable.

(5) An order under this section may—

(a) repeal or amend any enactment so far as that enactment relates to—

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- (i) the valuation of;
  - (ii) the levying or payment of rates in respect of;
  - (iii) the making of payments in lieu of rates in respect of,
- lands and heritages to which the order relates;
- (b) repeal or amend any enactment so far as that repeal or amendment is incidental or consequential to a repeal or amendment in terms of paragraph (a) above; and
  - (c) as regards such lands and heritages apply, restrict or modify the enactments relating to appeals or complaints in connection with the valuation roll.

[ An order under this section may provide that the assessor for any specified valuation <sup>F26</sup>(5A) area shall carry out such functions in relation to the operation of a formula as may be specified in the order, notwithstanding that such functions may include the valuation of lands and heritages in another valuation area.]

(6) An order under this section may provide that the order shall have effect as from the beginning of the year in which the order is made.

(7) An order under this section shall not be made unless a draft of the order has been laid before and approved by a resolution of each House of Parliament.]

[<sup>F27</sup>(8) An order under this section shall, if apart from the provisions of this subsection it would be treated for the purposes of the standing orders of the Lords House of Parliament as a hybrid instrument, proceed in that House as if it were not such an instrument.]

#### Textual Amendments

- F22** S. 6 substituted by [Local Government \(Scotland\) Act 1978 \(c. 4, SIF 81:2\), s. 1](#)
- F23** S. 6(1) substituted by [Local Government Finance Act 1988 \(c. 41, SIF 81:1\), s. 137, Sch. 12 Pt. II para. 11](#)
- F24** Words in s. 6(1) inserted (6.3.1992) by [Local Government Finance Act 1992 \(c. 14\), s. 117\(1\), Sch. 13 para. 42](#) (with s. 118(1)(2)(4)).
- F25** S. 6(1A) inserted by [Local Government and Housing Act 1989 \(c. 42, SIF 81:2\), s. 145, Sch. 6 para. 18](#)
- F26** S. 6(5A) inserted (4.1.1995) by [1994 c. 39, s. 160](#) (with s. 128(2)); S.I. 1994/3150, [art. 3\(b\)](#)
- F27** S. 6(8) added (8.11.1994) by [1994 c. 39, s. 157](#) (with s. 128(2)); S.I. 1994/2850, [art. 2, Sch. 1](#)

### Rating

#### 7 Levying of rates.

(1) Subject to the provisions of any other enactment, every rate levied by a rating authority for any year shall be levied in respect of all lands and heritages within the area to which the rate relates according to the rateable value of the lands and heritages as appearing in the valuation roll in force at the beginning of the year in respect of which the rate is levied:

Provided that where during any year the valuation roll has been altered under section 2 of this Act by inserting a new entry therein or altering an existing entry, the rate levied for the year or the part of the year after such alteration takes effect shall be according

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to the rateable value of the lands and heritages concerned as appearing in such new or altered entry.

[<sup>F28</sup>(1A) References in subsection (1) above to “rateable value” include the apportioned rateable value of part residential subjects and, in the case of the non-domestic water rate, the net annual value and the apportioned net annual value of part residential subjects [<sup>F29</sup>, and references in this subsection to an apportioned value of part residential subjects are references to that part of that value which is shown in the apportionment note as relating to the non-residential use of the subjects,].]

(2) Save as provided in any other enactment, every rate levied upon occupiers of lands and heritages within the area to which the rate relates shall be at a uniform amount per pound.

#### Textual Amendments

**F28** S. 7(1A) inserted by [Abolition of Domestic Rates Etc. \(Scotland\) Act 1987 \(c. 47, SIF 81:2, 103:2\)](#), s. 6, [Sch. 1 Pt. III para. 32](#)

**F29** Words inserted by [Local Government and Housing Act 1989 \(c. 42, SIF 81:2\)](#), s. 145, [Sch. 6 para. 6](#)

#### Modifications etc. (not altering text)

**C23** S. 7 modified by [S.I. 1975/930, regs. 2, 3, Sch.](#) and [Water \(Scotland\) Act 1980 \(c. 45, SIF 130\)](#), s. 48(1)

**C24** S. 7 extended by [Abolition of Domestic Rates Etc. \(Scotland\) Act 1987 \(c. 47, SIF 81:2, 103:2\)](#), s. 25(2), [Sch. 5 Pt. II para. 22\(c\)](#)

**C25** Ss. 7, 8, 9, 10 applied and power to modify conferred (6.3.1992) by [Local Government Finance Act 1992 \(c. 14\)](#), s. 107(1), [Sch. 11 Pt. II para. 23\(c\)](#) (with s. 118(1)(2)(4))

#### [7A <sup>F30</sup>Provisions as to setting of non-domestic rates.

(1) The Secretary of State shall, in respect of the financial year 1993-94 and each subsequent financial year, prescribe for each local authority a rate which shall be their non-domestic rate in respect of that year.

(2) Non-domestic rates shall be levied in accordance with section 7 of this Act by each rating authority in respect of lands and heritages—

(a) which are subjects (other than part residential subjects) in respect of which there is an entry in the valuation roll, according to their rateable value or, where a rateable value has been prescribed or determined in respect of the lands and heritages under section 128 of the <sup>M9</sup>Local Government Finance Act 1988, according to that rateable value; or

(b) which are part residential subjects, according to that part of their rateable value which is shown in the apportionment note as relating to the non-residential use of those subjects or, where a rateable value has been prescribed or determined in respect of the lands and heritages under section 128 of the <sup>M10</sup>Local Government Finance Act 1988, according to that part of that rateable value which is so shown in the apportionment note.

(3) The rates prescribed under subsection (1) above shall be known—

(a) in the case of the regional council, as the non-domestic regional rate;

(b) in the case of the district council, as the non-domestic district rate; and

(c) in the case of the islands council, as the non-domestic islands rate.

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- (4) References (however expressed) in any enactment to the non-domestic rate determined by a local authority shall be construed as references to the non-domestic rate prescribed for the local authority under this section.
- (5) A statutory instrument containing any order under this section shall be subject to annulment in pursuance of a resolution of either House of Parliament.]

#### Textual Amendments

**F30** S. 7A inserted (1.10.1992) by Local Government Finance Act 1992 (c. 14), s.110(1) (with s. 118(1)(2)(4)); S.I. 1992/2183, art. 2(a) (with art. 3).

#### Marginal Citations

**M9** 1988 c. 41.

**M10** 1988 c. 9.

### [7B] <sup>F31</sup>Provisions as to setting of non-domestic rates.

- (1) The Secretary of State shall, in respect of the financial year following that in which this subsection comes into force and each subsequent financial year, prescribe a rate which shall be the non-domestic rate to be levied throughout Scotland in respect of that financial year.

[ Non-domestic rates shall be levied by each rating authority in respect of lands and <sup>F32</sup>(2) heritages in their area—

- (a) in accordance with section 7 of this Act; or
- (b) where the lands and heritages fall within a class of lands and heritages prescribed under section 153 of the Local Government etc. (Scotland) Act 1994, in accordance with those regulations.]]
- (3) In the application of section 7 of this Act to the levying of the non-domestic rate prescribed under this section, for the words “to which the rate relates” in each of subsections (1) and (2) of that section there shall be substituted the words “of the rating authority”.
- (4) References (however expressed) in any enactment to the non-domestic rate determined by a local authority shall be construed as references to the non-domestic rate prescribed under this section.
- (5) A statutory instrument containing any order under this section shall be subject to annulment in pursuance of a resolution of either House of Parliament.

#### Textual Amendments

**F31** S. 7B substituted (31.3.1995) for s. 7A by Local Government Finance Act 1992 (c. 14), ss. 110(2), 119(2)(a) (with s. 118(1)(2)(4)) (which s. 7A was inserted by Local Government Finance Act 1992 (c. 14), s. 110(1)); S.I. 1994/3152, arts. 2, 4

**F32** S. 7B(2) substituted (1.4.1995) by 1994 c. 39, s. 180(1), Sch. 13 para. 100(4) (with s. 128(2)); S.I. 1994/3150, art. 4(c)(iv)

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#### **Modifications etc. (not altering text)**

**C26** S. 7B applied (1.4.2000) by 1997 c. 29, s. 6(9); S.I. 1998/2329, art. 3

### **8 Payment of rates by instalments.**

- (1) Subject to subsections (3)(b) and (7) to (9) below, the rates chargeable for any year in respect of lands and heritages shall be payable by monthly instalments during the year in accordance with subsections (2) to (6) below.
- (2) Subject to subsection (3) below, in any case where the rates chargeable for a year are payable in accordance with subsection (1) above, those rates shall be payable by ten instalments beginning in the second month and ending in the penultimate month of the year.
- (3) Where any person is liable for rates in respect of the occupation of lands and heritages for part only of a year or where for any other reason [<sup>F33</sup>a] demand note for any rates in respect of lands and heritages is not issued until after the end of the first month of the year, and, in either case, those rates are payable in accordance with subsection (1) above, then—
  - (a) if the demand note for the rates is issued before the beginning of the last quarter of the year, the rates shall be payable by instalments beginning in the month following that in which the demand note is issued and ending in the penultimate month of the year; and
  - (b) in any other case, the rates shall be payable in full in the month following that in which the demand note for the rates is issued.
- (4) Where any rates payable by any person in respect of lands and heritages for a year are payable by monthly instalments in accordance with subsection (1) above then, apart from any remission of rates on [<sup>F34</sup>account of hardship under section 25A of the <sup>M11</sup>Local Government (Scotland) Act 1966] or any rate rebate granted under [<sup>F35</sup>section 28(1)(a) of the the Social Security and Housing Benefits Act 1982 (whether or not modified under section 30(1)(a) of that Act)] and subject to subsection (6) below, each of those instalments shall be of the same amount except that the rating authority may round off the amount of any of those instalments other than either the first or the last to the nearest 5p and adjust the amount of the first or, as the case may be, the last of those instalments accordingly.
- (5) Except in a case falling within subsection (3)(b) above, there shall be included in or sent with every demand note for rates which are payable in accordance with subsection (1) above a statement specifying the total rates due for the year, the dates on which the monthly instalments of the rates are payable and the amount of each instalment.
- (6) Where, after sending the statement referred to in subsection (5) above, the rating authority are satisfied that there has been, or may be, any change in the amount any person is, or will be, liable to pay by way of rates in respect of the lands and heritages in question for the balance of the year to which the statement relates, the rating authority may by a further statement in writing make such adjustments as they think necessary in the amounts of the remainder of the instalments to which the statement referred to in subsection (5) above relates.
- (7) The rates shall not be payable in accordance with subsection (1) above in the case of any person who—



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- (a) has entered into an agreement with the rating authority to pay the rates otherwise than in accordance with that subsection; or
- (b) is liable under any enactment to pay the rates to any person or authority other than the rating authority.

[<sup>F36</sup>(7A) In any case where a demand note for rates, chargeable for a year or part only of a year, is for an amount (after any remission, rebate or other deduction to which the rate is subject) less than the prescribed sum the rates shall not be payable in accordance with subsection (1) above but shall be payable in full on or before the date specified by the rating authority in the demand note.

(7B) In subsection (7A) above, “the prescribed sum” means £20 or such lesser sum as the rating authority may fix.

(7C) The Secretary of State may by order, made by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament, amend subsection (7B) above by substituting for the amount for the time being specified in that subsection such other amount as appears to him to be justified.]

(8) If any person liable to pay rates for a year in accordance with subsection (1) above has not, after the expiry of six months of that year, paid an amount, in respect of the occupation of lands and heritages from the beginning of that year, which is equal to at least the sum of four monthly instalments, he shall be liable to pay the rates in full for the year or, as the case may be, the balance of the year forthwith.

(9) If any person liable to pay rates for a year in accordance with subsection (1) above is, at any time after the expiry of six months of that year, in arrears in the payment of not less than two monthly instalments, he shall be liable to pay the rates in full for the balance of the year forthwith.

#### Textual Amendments

- F33** Word substituted by [Local Government \(Miscellaneous Provisions\) \(Scotland\) Act 1981 \(c. 23, SIF 81:2\)](#), [Sch. 3 para. 33](#)
- F34** Words in s. 8(4) substituted (1.4.1995) by 1994 c. 39, s. 180(1), [Sch. 13 para. 100\(5\)](#) (with s. 128(2)); S.I. 1994/3150, [art. 4\(c\)\(iv\)](#)
- F35** Words substituted by the [Social Security and Housing Benefits Act 1982 \(c.24, SIF 113: 1\)](#), [Sch. 4 para. 19](#).; it was then provided by [Social Security Act 1986 \(c. 50, SIF 113:1\)](#), s. 68, [Sch. 10 para. 49\(a\)](#) that for the words “ a scheme made under section 28(1)(a) of the the Social Security and Housing Benefits Act 1982 (whether or not modified under section 30(1)(a) of that Act)” there should be substituted “the housing benefit scheme (whether or not modified under section 28 of the Social Security Act 1986)”
- F36** S. 8(7A)—(7C) inserted by [Local Government \(Miscellaneous Provisions\) \(Scotland\) Act 1981 \(c. 23, SIF 81:2\)](#), [ss. 7, 13](#)

#### Modifications etc. (not altering text)

- C27** S. 8 modified by S.I. 1975/930, regs. 2, 3, [Sch.](#) and [Water \(Scotland\) Act 1980 \(c. 45, SIF 130\)](#), [s. 48\(1\)](#)
- C28** S. 8 extended by [Abolition of Domestic Rates Etc. \(Scotland\) Act 1987 \(c. 47, SIF 81:2, 130:2\)](#), s. 25(2), [Sch. 5 Pt. II para. 22\(c\)](#)
- C29** Ss. 7, 8, 9, 10 applied and power to modify conferred (6.3.1992) by [Local Government Finance Act 1992 \(c. 14\)](#), s. 107(1), [Sch. 11 Pt. II para. 23\(e\)](#) (with s. 118(1)(2)(4)).

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### Marginal Citations

M11 1966 c. 51.

## 9 Restriction on rates payable when valuation appeal is pending.

[<sup>F37</sup>(1) Notwithstanding that an appeal under the Valuation Acts is pending with respect to any lands and heritages the rates levied on those lands and heritages shall be payable in accordance with section 8 of this Act.]

- (2) On the determination of the appeal referred to in subsection (1) above, the difference, if any, between the amount paid by virtue of that subsection and the amount which would have been payable on the rateable valuation as determined in the appeal shall—
- (a) if an overpayment has been made, be repaid by the rating authority, and
  - (b) if an underpayment has been made, be recovered by the rating authority as if it were arrears of rates due and payable to them.

### Textual Amendments

**F37** S. 9(1) substituted by [Local Government Finance Act 1988 \(c. 41, SIF 81:1\)](#), s. 137, **Sch. 12 Pt. II para. 12(1)(2)**

### Modifications etc. (not altering text)

**C30** S. 9 modified by [S.I. 1975/930](#), regs. 2, 3, **Sch.** and [Water \(Scotland\) Act 1980 \(c. 45, SIF 130\)](#), s. **48(1)**

**C31** S. 9 excluded by [S.I. 1987/345](#), **art. 4(2)** and by [S.I. 1988/114](#), **reg. 4(2)**

**C32** S. 9 extended by [Abolition of Domestic Rates Etc. \(Scotland\) Act 1987 \(c. 47, SIF 81:2, 130:2\)](#), s. 25(2), **Sch. 5 Pt. II para. 22(c)**

**C33** Ss. 7, 8, 9, 10 applied and power to modify conferred (6.3.1992) by [Local Government Finance Act 1992 \(c. 14\)](#), s. 107(1), **Sch. 11 Pt. II para. 23(c)** (with s. 118(1)(2)(4)).

## [<sup>F38</sup>9A Interest on rates paid in error.

- (1) Subject to regulations made under this section—
- (a) where any amount has been paid to a rating authority in respect of rates either—
    - (i) in error; or
    - (ii) in consequence of the entry on to the valuation roll of a valuation which is subsequently reduced,
 and the rating authority repay the amount, the authority shall also pay to the person to whom the repayment is made interest on the amount; and
  - (b) where any amount has been repaid to any person by a rating authority either—
    - (i) in error; or
    - (ii) in consequence of the entry on to the valuation roll of a valuation which is subsequently increased,
 and the rating authority recover the amount, the authority may also recover from that person any interest paid on that amount.
- (2) The Secretary of State may by regulations make provision as to—

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- (a) the circumstances in which interest is to be payable or recoverable by a rating authority;
  - (b) the rate at which any interest is to be paid, or the manner in which such rate is to be determined; and
  - (c) the date or dates from which, or by reference to which, any payment of interest is to run.
- (3) This section applies to any payments such as are mentioned in subsection (1) which were made—
- (a) after 1st April 1990; and
  - (b) before the coming into force of this section,
- as it applies to such payments made after the coming into force of this section; but does not entitle any person to receive any payment of interest in respect of any such payment made before 1st April 1990.
- (4) Regulations made under this section may provide for the deduction from any sum paid by way of interest under or by virtue of this section of any sum previously paid under or by virtue of any other enactment by way of interest in respect of the same payment.
- (5) Regulations under this section—
- (a) may make different provision in relation to different cases or descriptions of case;
  - (b) may include such transitional provisions as appear to the Secretary of State to be necessary or expedient; and
  - (c) shall be made by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament.]

#### Textual Amendments

- F38** *S. 9A* (which was inserted by [Local Government Finance Act 1988 \(c. 41\)](#) s. 137, Sch. 12 Pt. II para. 13) substituted (1.10.1992) by [Local Government Finance Act 1992 \(c. 14\)](#) s.110(4) (with s. 118(1)(2) (4)); [S.I. 1992/2183](#), [art. 2\(a\)](#) (with [art. 3](#)).

## 10 Collection of rates by housing body on behalf of rating authority.

- (1) A rating authority may make arrangements with any housing body within their area on such terms and conditions as may be agreed between them or, failing agreement, as may be determined by the Secretary of State, for the collection by the housing body of the rates levied by the rating authority on the occupiers of lands and heritages let by the housing body; and where such arrangements are made the rates shall be payable to the housing body by instalments along with payments of rent.
- (2) Where a rating authority wish to make arrangements with a housing body under subsection (1) above but the housing body have not agreed to enter into the arrangements, the Secretary of State may by order, made after consultation with the rating authority and the housing body, provide that the rating authority and the housing body shall make such arrangements in accordance with that subsection.
- (3) A statutory instrument containing an order under subsection (2) above shall be subject to annulment in pursuance of a resolution of either House of Parliament.

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(4) In this section “housing body” means any authority to which section 118 of the Act of 1973 applies, a development corporation or the Scottish Special Housing Association.

**Modifications etc. (not altering text)**

- C34** S. 10 extended by [Abolition of Domestic Rates Etc. \(Scotland\) Act 1987 \(c. 47, SIF 81:2, 130:2\)](#), s. 25(2), [Sch. 5 Pt. II para. 22\(c\)](#)
- C35** S. 10 modified by [S.I. 1975/930](#), regs. 2, 3, [Sch.](#) and [Water \(Scotland\) Act 1980 \(c. 45, SIF 130\)](#), s. 48(1)
- C36** Ss. 7, 8, 9, 10 applied and power to modify conferred (6.3.1992) by [Local Government Finance Act 1992 \(c. 14\)](#), s. 107(1), [Sch. 11 Pt. II para. 23\(c\)](#) (with s. 118(1)(2)(4)).

## 11 Assessment roll.

For section 233 of the Act of 1947 there shall be substituted the following section—

**“233 Assessment roll.**

- (1) Every rating authority shall make up and maintain in such form as may be convenient a roll called “the assessment roll” containing such information as the authority require for the purpose of collecting every rate levied by the authority:

Provided that the Secretary of State may by regulations made under section 111 of the Local Government (Scotland) Act 1973 prescribe information which the assessment roll shall contain if at any time he considers this necessary.

- (2) The assessment roll shall at all reasonable times be open to inspection by any person interested in or liable to pay any rate to which the roll relates, and any such person may take extracts therefrom without the payment of any fee.
- (3) The rating authority may, at any time before the expiration of one year after the end of the year in respect of which any rate is levied, amend the assessment roll by inserting therein the name of any person who ought to have been entered therein as liable in the rate or who since the making up of the roll has become so liable, or by striking out the name of any person who according to a written certificate by the assessor under the Valuation Acts ought not to have been so entered, or by correcting the amount of any value or rate which may have been inaccurately entered, and any such amendment shall not vitiate or render it less operative.
- (4) The production of the assessment roll shall be received as sufficient evidence of the making and validity of the rates therein mentioned.”

**Modifications etc. (not altering text)**

- C37** The text of ss. 11, 12, 17–19 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

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## Grants

### 12 Rate support grants.

The provisions of the Act of 1966 relating to rate support grants shall have effect subject to the amendments specified in Schedule 2 to this Act.

#### Modifications etc. (not altering text)

**C38** The text of ss. 11, 12, 17–19 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

### 13 Removal of limit on contributions to local authorities under Rural Water Supplies and Sewerage Act 1944.

(1) The limit of £60 million which by subsection (5) of section 1 of the <sup>M12</sup>Rural Water Supplies and Sewerage Act 1944 is imposed on the amount of the contributions which may be made under that section out of money provided by Parliament towards the expenses of local authorities in Scotland in respect of rural water supplies and sewerage is hereby removed; and accordingly for that subsection there shall be substituted the following subsection:—

“(5) Any contributions made under this section shall be defrayed out of money provided by Parliament.”

(2) In subsection (1) above references to subsection (5) of section 1 of the said Act of 1944 are references to that subsection as applied to Scotland by section 7 of that Act.

#### Marginal Citations

**M12** 1944 c. 26.

### 14 Termination of certain existing grants for roads and public transport.

(1) Subject to subsection (3) below, on and after 16th May 1975 the power of the Secretary of State—

- (a) ..... <sup>F39</sup>
- (b) to make grants to a local authority under [<sup>F40</sup>subsection (3) of section 34] of the <sup>M13</sup>Transport Act 1968 (towards expenditure incurred in making grants to provide assistance for rural bus or ferry services) [<sup>F40</sup> or under subsection (4) of that section (towards expenditure incurred] in the provision of such ferry services), and
- (c) to make grants to any person under section 56(1) of the Transport Act 1968 (towards capital expenditure incurred or to be incurred in the provision, improvement or development of facilities for public passenger transport),

shall cease to be exercisable except in a case where it appears to the Secretary of State that the whole or any part of any expenditure in respect of which any such advances or grants as aforesaid could be made should not fall on the . . . <sup>F41</sup>, local authority or person concerned, as the case may be.

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- (2) As from the beginning of the year 1978-79 the power of the Secretary of State to make grants to a Passenger Transport Executive under section 20(8) of the <sup>M14</sup>Transport Act 1968 (towards expenditure incurred by the Executive for certain areas in pursuance of agreements with the Railways Board for the provision of railway passenger services) shall cease to be exercisable, except in a case where it appears to the Secretary of State that the whole or any part of any expenditure in respect of which any such grants as aforesaid could be made should not fall on the Passenger Transport Executive.
- (3) In any case where—
- (a) it appears to the Secretary of State that any person other than a local authority has before 16th May 1975 entered upon a course of expenditure of a capital nature such as is referred to in section 56(1) of the Transport Act 1968, and
  - (b) the Secretary of State has approved before 16th May 1975 the making of a grant or grants towards that expenditure under that section,
- then, notwithstanding anything in subsection (1) above, the Secretary of State may, on or after 16th May 1975, make to that person under that section any grant which he considers appropriate in the light of that approval.

#### Textual Amendments

**F39** S. 14(1)(a) repealed by Roads (Scotland) Act 1984 (c. 54, SIF 108), s. 156(3), **Sch. 11**

**F40** Words substituted by Local Government (Miscellaneous Provisions) (Scotland) Act 1981 (c. 23, SIF 81:2), **Sch. 3 para. 34**

**F41** Words repealed by Roads (Scotland) Act 1984 (c. 54, SIF 108), s. 156(3), **Sch. 11**

#### Marginal Citations

**M13** 1968 c. 73.

**M14** 1968 c. 73.

## 15 Termination of certain existing grants to local authorities for certain other purposes.

- (1) The Secretary of State may from time to time, by order, provide that, with effect from such year as may be specified in the order, no grant shall be paid under any such local authority grant provision as may be so specified or that no grant shall be so paid except in respect of expenditure of a description so specified.
- (2) In subsection (1) above “local authority grant provision” means an enactment providing for the payment of grants to local authorities in respect of expenditure incurred in connection with a specific function.
- (3) An order under this section may contain provision amending, repealing or revoking, with or without savings, any enactment.
- (4) No order under this section shall have effect unless it is approved by a resolution of each House of Parliament.

## [<sup>F42</sup>15A Direct Labour Organisation/ Direct Services Organisation Accounts.

- (1) A local authority may establish, in accordance with the provisions of this section, Direct Labour Organisation/Direct Services Organisation Funds (to be known as

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“DLO/DSO funds”) for the purpose of dealing with surpluses and deficits which may occur in respect of—

- (a) any revenue account kept by the authority under section 10(1) (accounts relating to construction or maintenance work) of the <sup>M15</sup>Local Government, Planning and Land Act 1980; or
  - (b) any account kept by the authority under section 9(2) (accounts) of the <sup>M16</sup>Local Government Act 1988.
- (2) Any interest earned on money transferred to a reserve fund established under subsection (1) above may be credited to that fund.
- (3) Any surplus credited to a fund established under subsection (1) above and which is, in the opinion of the authority, not required for the purpose of dealing with deficits in any such fund, may be transferred by them to the general fund maintained by them under section 93 of the Act of 1973 (general fund).
- (4) This section is without prejudice to any specific limitation imposed by or under any enactment as to the manner in which money may be paid into or out of any specific account.]

#### Textual Amendments

**F42** S. 15A inserted (1.4.1995) by 1994 c. 39, s. 168(1) (with s. 128(2)); S.I. 1995/702, art. 3(b) (subject to saving and transitional provision in art. 8)

#### Marginal Citations

**M15** 1980 c. 65.

**M16** 1988 c. 9.

### Miscellaneous Financial Provisions

#### 16 Borrowing and lending by local authorities and certain other bodies and certain of their funds.

Schedule 3 to this Act shall . . . <sup>F43</sup> have effect with respect to the powers of local authorities, joint boards, water development boards and river purification boards to borrow and lend money and with respect to certain of their funds.

#### Textual Amendments

**F43** Words repealed by Abolition of Domestic Rates Etc. (Scotland) Act 1987 (c. 47, SIF 81:2), s. 34, Sch. 6

#### 17 Remuneration and expenses of members of Commission for Local Authority Accounts.

Schedule 8 to the Act of 1973 (provisions as to the Commission for Local Authority Accounts in Scotland) shall have effect as if after paragraph 3 there were inserted the following paragraph—

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“3A There may be paid to any member of the Commission out of their funds such salary or fees and allowances as may be approved by the Secretary of State.”

**Modifications etc. (not altering text)**

**C39** The text of ss. 11, 12, 17–19 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

**18 Financial year of local authorities.**

For subsection (5) of section 96 of the Act of 1973 there shall be substituted the following subsections—

“(5) The financial year of a local authority shall be the period of twelve months ending with 31st March, so however that for the purposes of subsections (2) to (4) above, the first financial year of any local authority shall be the period beginning with the date on which the authority came into existence in accordance with the provisions of this Act and ending 31st March 1976 ; and references in this Act, and in any other enactment (whether passed or made before or after the passing of this Act) to the financial year of a local authority shall be construed in accordance with the provisions of this subsection.

(6) The Secretary of State may by order make provision amending, repealing or revoking, with or without savings, any enactment which is inconsistent with or superseded by subsection (5) above ; but no order under this subsection shall have effect unless it is approved by a resolution of each House of Parliament.”

**Modifications etc. (not altering text)**

**C40** The text of ss. 11, 12, 17–19 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

**19 Amendment of section 201 of Act of 1947.**

Section 201 of the Act of 1947 (power of Secretary of State to disallow illegal payments and surcharge on interim report of auditor), shall have effect as if in subsection (1) after proviso (e) there were inserted the following proviso—

“(f) The Secretary of State, in the case of an interim report received by him after 1st September 1973, shall have regard to all the circumstances of the case, including such information as may be available to him as to the means of any person against whom a surcharge might be made under this subsection and the ability of that person to pay the surcharge, and may thereafter, if he thinks fit, abstain from making the surcharge in whole or in part.”



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#### Modifications etc. (not altering text)

- C41** The text of ss. 11, 12, 17–19 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

20 ..... <sup>F44</sup>

#### Textual Amendments

- F44** S. 20 repealed by [Roads \(Scotland\) Act 1984 \(c. 54, SIF 108\)](#), s. 156(3), [Sch. 11](#)

## PART II

### LOCAL ADMINISTRATION

#### Modifications etc. (not altering text)

- C42** Pt. II (ss. 21-31) extended (6.4.1995) by [1994 c. 39, s. 180\(1\)](#), [Sch. 3 para. 18](#) (with [s. 128\(2\)](#)); [S.I. 1995/702, art. 4\(1\)](#), [Sch. 2](#) (subject to [art. 4\(2\)](#) and to saving and transitional provision in [art. 7](#))  
Pt. II (ss. 21-31) applied (with modifications) (6.4.1995) (*temp.* until 1.4.1996) by [S.I. 1995/789, art. 2](#), [Sch. para. 4](#)

#### 21 Commissioner for Local Administration.

- (1) For the purpose of conducting investigations in relation to any authority to which this Part of this Act applies there shall be a commissioner to be known as the Commissioner for Local Administration in Scotland.
- (2) Appointments to the office of Commissioner shall be made by Her Majesty on the recommendation of the Secretary of State after consultation with such bodies representing local authorities as appear appropriate to the Secretary of State, and a person so appointed shall, subject to subsection (3) below, hold office during good behaviour.
- (3) A person appointed to be the Commissioner may be relieved of office by Her Majesty at his own request or may be removed from office by Her Majesty on grounds of incapacity or misbehaviour, and shall in any case vacate office on completing the year of service in which he attains the age of sixty-five years.
- (4) For each year, the Commissioner—
  - (a) shall submit a general report on the discharge of his functions to the designated body [<sup>F45</sup>and arrange for the publication of such report;], and
  - (b) shall review the operation of the provisions of this Part of this Act about the investigation of complaints, and shall have power to convey to local authorities or to government departments any recommendations or conclusions reached in the course of his review.

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[<sup>F46</sup>(4A) The Commissioner may, after consultation with such associations of local authorities as appear to him to be appropriate, provide to the authorities to which this Part of this Act applies such advice and guidance about good administrative practice as appears to him to be appropriate and may arrange for it to be published for the information of the public.]

(5) Schedule 4 to this Act shall have effect as respects the Commissioner.

**Textual Amendments**

**F45** Words inserted by [Local Government \(Miscellaneous Provisions\) \(Scotland\) Act 1981 \(c. 23, SIF 81:2\), Sch. 1\(a\)](#)

**F46** [S. 21\(4A\)](#) inserted by [Local Government and Housing Act 1989 \(c. 42, SIF 81:1, 2\), s. 23\(2\)](#)

**22 Body to be designated by Secretary of State for purposes of Part II.**

(1) For the purposes of this Part of this Act, the Secretary of State shall by order designate a body to be called “the designated body for Scotland”.

(2) ..... <sup>F47</sup>

(3) All expenses incurred by the designated body under this Part of this Act shall be defrayed by local authorities in accordance with regulations made by the Secretary of State after consultation with such associations of local authorities as appear to him to be concerned.

(4) The Secretary of State may—

- (a) require the designated body to keep proper accounts of the expenditure incurred by them in the discharge of their functions;
- (b) require the designated body to prepare in respect of each financial year a statement of account in such form as the Secretary of State may direct;
- (c) make arrangements for the audit of such accounts.

(5) A statutory instrument containing an order under subsection (1) above or regulations under subsection (3) above shall be subject to annulment in pursuance of a resolution of either House of Parliament.

**Textual Amendments**

**F47** [S. 22\(2\)](#) repealed by [Local Government \(Miscellaneous Provisions\) \(Scotland\) Act 1981 \(c. 23, SIF 81:2\), Sch. 4](#)

**23 Authorities subject to investigation.**

(1) This Part of this Act applies to the following authorities—

- (a) any local authority;
- (b) any committee, joint committee or joint board the members of which, other than ex officio members, are appointed by one or more local authorities;
- (c) any education committee, joint committee of education authorities, and any person or body which discharges the functions of an education authority by virtue of an arrangement made under Schedule 10 to the Act of 1973;

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- (d) any water development board within the meaning of [<sup>F48</sup>the <sup>M17</sup>Water (Scotland) Act 1980];
  - (e) any river purification board within the meaning of section 135 of the Act of 1973;
  - [<sup>F49</sup>(ee) a residuary body established under section 18 of the Local Government etc. (Scotland) Act 1994;]
  - (f) any person or body which by virtue of section 56(1) of the Act of 1973 discharges any of the functions of a local authority.
  - [<sup>F50</sup>[<sup>F51</sup>(g) Scottish Homes, in respect only of any of its actions as a landlord;]
  - (h) subject to subsection (2A) below, any development corporation established under an order made, or having effect as if made under the New Towns (Scotland) Act <sup>M18</sup>1968 (in this section and section 24 of this Act referred to as a “new town development corporation”);]
  - [<sup>F52</sup>(i) any licensing board within the meaning of the Licensing (Scotland) Act 1976.]
- (2) Without prejudice to subsection (1)(f) above, this Part of this Act applies to—
- (a) any joint committee constituted by an administration scheme under section 36 of the <sup>M19</sup>Fire Services Act 1947;
  - (b) any joint police committee constituted by an amalgamation scheme made or approved under the <sup>M20</sup>Police (Scotland) Act 1967;
  - (c) any social work committee established under section 2 of the <sup>M21</sup>Social Work (Scotland) Act 1968;
  - (d) any Children’s Panel Advisory Committee formed under paragraph 3 of Schedule 3 to the said Act of 1968;
  - (e) any joint committee, for the administration of superannuation schemes for persons employed in local government service or teachers, established by regulations under section 7 or 9 of the <sup>M22</sup>Superannuation Act 1972 respectively.
- [<sup>F53</sup>(2A) The application of this Part of this Act to any new town development corporation by virtue of subsection (1)(h) above extends only to the Corporation’s functions in relation to housing.]
- (3) Her Majesty may by Order in Council provide that this Part of this Act shall also apply, subject to any modifications or exceptions specified in the Order, to any authority specified in the Order, being an authority which is established by or under an Act of Parliament, and which has power to levy a rate, or to issue a requisition.
- (4) An Order made by virtue of subsection (3) above shall be subject to annulment in pursuance of a resolution of either House of Parliament.

#### Textual Amendments

- F48** Words substituted by virtue of [Water \(Scotland\) Act 1980 \(c. 45, SIF 130\)](#), [Sch. 9 para. 3](#)
- F49** [S. 23\(1\)\(ee\)](#) inserted (6.4.1995) by 1994 c. 39, s. 180(1), [Sch. 13 para. 100\(6\)\(a\)\(i\)](#) (with s. 128(2)); [S.I. 1995/702, art. 4\(1\)](#), [Sch. 2 para. 36\(b\)](#)
- F50** [S. 23\(1\)\(g\)\(h\)](#) added by [Law Reform \(Miscellaneous Provisions\) \(Scotland\) Act 1985 \(c. 73, SIF 57\)](#), [s. 55\(1\)\(a\)](#)
- F51** [S. 23\(1\)\(g\)](#) substituted by [Housing \(Scotland\) Act 1988 \(c. 43, SIF 61\)](#), ss. 1, 3(1)(3), [Sch. 2 para. 4](#)
- F52** [S. 23\(1\)\(i\)](#) inserted by [Local Government Act 1988 \(c. 9, SIF 81:1, 2\)](#), s. 29, [Sch. 3 para. 12](#)
- F53** [S. 23\(2A\)](#) added by [Law Reform \(Miscellaneous Provisions\) Act 1985 \(c. 73, SIF 57\)](#), [s. 55\(1\)\(b\)](#)

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#### Marginal Citations

- M17 1980 c. 45.
- M18 1968 c.16 (123:4).
- M19 1947 c. 41.
- M20 1967 c. 77.
- M21 1968 c. 49.
- M22 1972 c. 11.

## 24 Matters subject to investigation.

- (1) Subject to the provisions of this Part of this Act, where a written complaint is made by or on behalf of a member of the public who claims to have sustained injustice in consequence of maladministration in connection with action taken by or on behalf of an authority to which this Part of this Act applies, being action taken in the exercise of administrative functions of that authority, the Commissioner may investigate that complaint.
- (2) A complaint shall not be entertained under this Part of this Act unless [<sup>F54</sup>it is made in writing to the Commissioner specifying the action alleged to constitute maladministration or]—
  - (a) it is made in writing to a member of the authority, or of any other authority concerned, specifying the action alleged to constitute maladministration, and
  - (b) it is referred to the Commissioner, with the consent of the person aggrieved, or of a person acting on his behalf, by that member, or by any other person who is a member of any authority concerned, with a request to investigate the complaint.
- (3) If the Commissioner is satisfied that any member of any authority concerned has been requested to refer the complaint to the Commissioner, and has not done so, the Commissioner may, if he thinks fit, dispense with the requirements in subsection (2) (b) above.

[<sup>F55</sup>(3A) Subsections (2) and (3) above do not apply in relation to the Scottish Special Housing Association or a new town development corporation.]

- (4) A complaint shall not be entertained unless it was made to [<sup>F56</sup>the Commissioner or] to a member of any authority concerned [<sup>F57</sup>or, in the case of the Scottish Special Housing Association or a new town development corporation, to the Commissioner] within twelve months from the day on which the person aggrieved first had notice of the matters alleged in the complaint, but the Commissioner may conduct an investigation pursuant to a complaint not made within that period if he considers that [<sup>F58</sup>it is reasonable] to do so.
- (5) Before proceeding to investigate a complaint, the Commissioner shall satisfy himself that the complaint has been brought, by or on behalf of the person aggrieved, to the notice of the authority to which the complaint relates and that that authority has been afforded a reasonable opportunity to investigate, and reply to, the complaint.
- (6) The Commissioner shall not conduct an investigation under this Part of this Act in respect of any of the following matters, that is to say,—
  - (a) any action in respect of which the person aggrieved has or had a right of appeal, reference or review to or before a tribunal constituted by or under any enactment;

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- (b) any action in respect of which the person aggrieved has or had a right of appeal to a Minister of the Crown; or
- (c) any action in respect of which the person aggrieved has or had a remedy by way of proceedings in any court of law:

Provided that the Commissioner may conduct an investigation notwithstanding the existence of such a right or remedy if satisfied that in the particular circumstances it is not reasonable to expect the person aggrieved to resort or have resorted to it.

- (7) The Commissioner shall not conduct an investigation in respect of any action which in his opinion affects all or most of the inhabitants of the area of the authority concerned.
- (8) Without prejudice to the preceding provisions of this section, the Commissioner shall not conduct an investigation under this Part of this Act in respect of any such action or matter as is described in Schedule 5 to this Act.
- (9) Her Majesty may by Order in Council amend the said Schedule 5 so as to [<sup>F59</sup>add to or exclude from the provisions of that Schedule (as it has effect for the time being)] such actions or matters as may be described in the Order; and any Order made by virtue of this subsection shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (10) In determining whether to initiate, continue or discontinue an investigation, the Commissioner shall, subject to the preceding provisions of this section, act at discretion; and any question whether a complaint is duly made under this Part of this Act shall be determined by the Commissioner.
- (11) In this section references to a person aggrieved include references to his personal representatives.
- (12) A complaint shall not be entertained under this Part of this Act if and so far as it is in respect of anything done before 16th May 1975, or in respect of any default or alleged default first arising before that date.

#### Textual Amendments

- F54** Words inserted by [Local Government Act 1988 \(c. 9, SIF 81:1, 2\)](#), s. 29, **Sch. 3 para. 13(1)(a)**
- F55** [S. 24\(3A\)](#) inserted by [Law Reform \(Miscellaneous Provisions\) \(Scotland\) Act 1985 \(c. 73, SIF 57\)](#), **ss. 55(2)(a), 60(3)(d)**
- F56** Words inserted by [Local Government Act 1988 \(c. 9, SIF 81:2\)](#), s. 29, **Sch. 3 para. 13(1)(b)(2)**
- F57** Words inserted by [Law Reform \(Miscellaneous Provisions\) \(Scotland\) Act 1985 \(c. 73, SIF 57\)](#), **ss. 55(2)(b), 60(3)(d)**
- F58** Words substituted by [Local Government Act 1988 \(c. 9, SIF 81:2\)](#), s. 29, **Sch. 3 para. 13(1)(b)(2)**
- F59** Words substituted by [Local Government Act 1988 \(c. 9, SIF 81:2\)](#), s. 29, **Sch. 3 para. 13(1)(2)(c)**

## 25 Provisions relating to complaints.

- (1) A complaint under this Part of this Act may be made by any individual, or by any body of persons whether incorporated or not, not being—
  - (a) a local authority or other authority or body constituted for purposes of the public service or of local government, or for the purposes of carrying on under national ownership any industry or undertaking or part of an industry or undertaking;

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- (b) any other authority or body whose members are appointed by Her Majesty or any Minister of the Crown or government department, or whose revenues consist wholly or mainly of moneys provided by Parliament.

- (2) Where the person by whom a complaint might have been made under the preceding provisions of this Part of this Act has died or is for any reason unable to act for himself, the complaint may be made by his personal representative or by a member of his family or by some body or individual suitable to represent him; but except as aforesaid a complaint shall not be entertained under this Part of this Act unless made by the person aggrieved himself.

## **26 Procedure in respect of investigations.**

- (1) Where the Commissioner proposes to conduct an investigation pursuant to a complaint, he shall afford to the authority concerned, and to any person who is alleged in the complaint to have taken or authorised the action complained of, an opportunity to comment on any allegations contained in the complaint.
- (2) Every such investigation shall be conducted in private, but except as aforesaid the procedure for conducting an investigation shall be such as the Commissioner considers appropriate in the circumstances of the case; and, without prejudice to the generality of the preceding provision, the Commissioner may obtain information from such persons and in such manner, and make such inquiries, as he thinks fit, and may determine whether any person may be represented (by counsel or solicitor or otherwise) in the investigation.
- (3) The designated body shall, if the Commissioner thinks fit, pay to the person by whom the complaint was made, and to any other person who attends or furnishes information for the purposes of an investigation under this Part of this Act—
  - (a) sums in respect of the expenses properly incurred by them;
  - (b) allowances by way of compensation for the loss of their time.
- (4) The conduct of an investigation under this Part of this Act shall not affect any action taken by the authority concerned, or any power or duty of that authority to take further action with respect to any matters subject to the investigation.

## **27 Power of Commissioner to require information and other matters relating to investigations.**

- (1) For the purposes of an investigation under this Part of this Act the Commissioner may require any member or officer of the authority concerned, or any other person who in his opinion is able to furnish information or produce documents relevant to the investigation, to furnish any such information or produce any such documents.
- (2) For the purposes of any such investigation the Commissioner shall have the same powers as the Court of Session in respect of the attendance and examination of witnesses, and in respect of the production of documents.
- (3) The Commissioner may, under subsection (1) above, require any person to furnish information concerning communications between the authority concerned and any Government department, or to produce any correspondence or other documents forming part of any such written communications.

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- (4) No obligation to maintain secrecy or other restriction upon the disclosure of information obtained by or furnished to persons in Her Majesty's service, whether imposed by any enactment or by any rule of law, shall apply to the disclosure of information in accordance with subsection (3) above; and where that subsection applies the Crown shall not be entitled to any such privilege in respect of the production of documents or the giving of evidence as is allowed by law in legal proceedings.
- (5) Nothing in subsection (1) or subsection (3) above affects—
- (a) the restriction, imposed by section 11(2) of the <sup>M23</sup>Parliamentary Commissioner Act 1967, on the disclosure of information by the Parliamentary Commissioner or his officers; or
  - (b) the restriction, imposed by [<sup>F60</sup>section 15 of the Health Service Commissioners Act 1993], on the disclosure of information by the Health Service Commissioner for Scotland or by his officers.
- (6) To assist him in any investigation, the Commissioner may obtain advice from any person who in his opinion is qualified to give it and, if the Commissioner thinks fit, the designated body shall pay to any such person such fees or allowances as the Commissioner may determine.
- (7) Subject to subsection (4) above, no person shall be compelled for the purposes of an investigation under this Part of this Act to give any evidence or produce any document which he could not be compelled to give or produce in civil proceedings before the Court of Session.
- (8) If any person without lawful excuse obstructs the Commissioner in the performance of his functions under this Part of this Act, or is guilty of any act or omission in relation to an investigation under this Part of this Act which, if that investigation were a proceeding in the Court of Session would constitute contempt of court, the Commissioner may certify the offence to the Court of Session.
- (9) Where an offence is so certified, the Court of Session may inquire into the matter and, after hearing any witnesses who may be produced against or on behalf of the person charged with the offence, and after hearing any statement that may be offered in defence, deal with him in any manner in which the Court of Session could deal with him if he had committed the like offence in relation to the Court of Session.
- (10) Nothing in subsection (8) above shall be construed as applying to the taking of any such action as is mentioned in section 26(4) of this Act.

#### Textual Amendments

**F60** Words in s. 27(5)(b) substituted (5.2.1994) by 1993 c. 46, ss. 20, 22(4), **Sch. 2 para. 5** (with s. 3(4)).

#### Marginal Citations

**M23** 1967 c. 13.

## 28 Reports on investigations.

- (1) In any case where the Commissioner conducts an investigation, or decides not to conduct an investigation, he shall send a report of the results of the investigation, or as the case may be a statement of his reasons for not conducting an investigation—

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- (a) to the person, if any, who referred the complaint to the Commissioner in accordance with section 24(2) of this Act, and
  - (b) to the complainant, and
  - (c) to the authority concerned, and to any other authority or person who is alleged in the complaint to have taken or authorised the action complained of.
- (2) Where the complaint was referred by a person who was a member of an authority but who has since ceased to be a member of that authority, the report or statement shall be sent to the chairman of that authority.
- (3) Apart from identifying the authority or authorities concerned, the report shall not <sup>[F61]</sup>, except where subsection (3A) below applies,]—
- (a) mention the name of any person, or
  - (b) contain any particulars which, in the opinion of the Commissioner, are likely to identify any person and can be omitted without impairing the effectiveness of the report,

unless, after taking into account the public interest as well as the interests of the complainant and of persons other than the complainant, the Commissioner considers it necessary to mention the name of that person or to include in the report any such particulars.

<sup>[F62]</sup>(3A) Where the Commissioner is of the opinion—

- (a) that action constituting maladministration was taken which involved a member of the authority concerned, and
- (b) that the member's conduct constituted a breach of the National Code of Local Government Conduct,

then, unless the Commissioner is satisfied that it would be unjust to do so, the report shall name the member and give particulars of the breach.]

- (4) Subject to the provisions of subsection (7) below, the authority concerned shall for a period of three weeks make copies of the report available <sup>[F63]</sup>—
- (a) without charge, for inspection and the taking of copies thereof or extracts therefrom; and
  - (b) at a reasonable charge, for purchase,
- by any person at all reasonable hours at one or more of the authority's offices.]
- (5) Not later than <sup>[F64]</sup>two weeks] after the report is received by the authority concerned, the proper officer of the authority shall give public notice, by advertisement in newspapers and such other ways as appear to him appropriate, that the report will be available . . . <sup>F65</sup> as provided by subsection (4) above, and shall specify the date, being a date <sup>[F66]</sup>not more than one week] after the giving of the public notice, from which the period of three weeks will begin.
- (6) If a person having the custody of a report made available . . . <sup>F65</sup> as provided by subsection (4) above obstructs any person seeking to inspect <sup>[F67]</sup>or purchase] the report, or to make a copy of, or extract from, the report, he shall be liable on summary conviction to a fine not exceeding <sup>[F68]</sup>level 3 on the standard scale].
- (7) The Commissioner may, if he thinks fit after taking into account the public interest as well as the interests of the complainant and of persons other than the complainant, direct that a report specified in the direction shall not be subject to the provisions of subsections (4) and (5) above . . . <sup>F69</sup>



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### Textual Amendments

- F61** Words inserted by [Local Government and Housing Act 1989 \(c. 42, SIF 81:2\), s. 32\(2\)\(a\)](#)
- F62** [S. 28\(3A\)](#) inserted by [Local Government and Housing Act 1989 \(c. 42, SIF 81:1, 2\), s. 32\(2\)\(b\)](#)
- F63** Words substituted by [Local Government \(Miscellaneous Provisions\) \(Scotland\) Act 1981 \(c. 23, SIF 81:2\), Sch. 1\(e\)\(i\)](#)
- F64** Words substituted by [Local Government \(Miscellaneous Provisions\) \(Scotland\) Act 1981 \(c. 23, SIF 81:2\), Sch. 1\(e\)\(ii\)](#)
- F65** Words repealed by [Local Government \(Miscellaneous Provisions\) \(Scotland\) Act 1981 \(c. 23, SIF 81:2\), Sch. 4](#)
- F66** Words inserted by [Local Government \(Miscellaneous Provisions\) \(Scotland\) Act 1981 \(c. 23, SIF 81:2\), Sch. 1\(e\)\(ii\)](#)
- F67** Words inserted by [Local Government \(Miscellaneous Provisions\) \(Scotland\) Act 1981 \(c. 23, SIF 81:2\), Sch. 1\(e\)\(iii\)](#)
- F68** Words substituted by virtue of [Criminal Procedure \(Scotland\) Act 1975 \(c. 21, SIF 39:1\), ss. 289F, 289G](#) (as inserted by [Criminal Justice Act 1982 \(c. 48, SIF 39:1\), s. 54](#))
- F69** Words repealed by [Local Government Act 1988 \(c. 9, SIF 81:1, 2\) ss. 29, 41, Sch. 3 para. 14, Sch. 7 Pt. II](#)

## 29 Reports on investigations: further provisions.

- [<sup>F70</sup>(1) This section applies where the Commissioner reports that injustice has been caused to a person aggrieved in consequence of maladministration.
- (2) The report shall be laid before the authority concerned and it shall be the duty of that authority to consider the report and, within the period of three months beginning with the date on which they received the report, or such longer period as the Commissioner may agree in writing, to notify the Commissioner of the action which the authority have taken or propose to take.
- (2A) If the Commissioner—
- does not receive the notification required by subsection (2) above within the period allowed by or under that subsection, or
  - is not satisfied with the action which the authority concerned have taken or propose to take, or
  - does not within a period of three months beginning with the end of the period so allowed, or such longer period as the Commissioner may agree in writing, receive confirmation from the authority concerned that they have taken action, as proposed, to the satisfaction of the Commissioner,
- he shall make a further report setting out those facts and making recommendations.
- (2B) Those recommendations are such recommendations as the Commissioner thinks fit to make with respect to the action which, in his opinion, the authority concerned should take to remedy the injustice to the person aggrieved and to prevent similar injustice being caused in the future.
- (2C) Section 28 of this Act, with any necessary modifications, and subsection (2) above shall apply to a report under subsection (2A) above as they apply to a report under that section.
- (2D) If the Commissioner—

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- (a) does not receive the notification required by subsection (2) above as applied by subsection (2C) above within the period allowed by or under that subsection or is satisfied before the period allowed by that subsection has expired that the authority concerned have decided to take no action; or
- (b) is not satisfied with the action which the authority concerned have taken or propose to take; or
- (c) does not within a period of three months beginning with the end of the period allowed by or under subsection (2) above as applied by subsection (2C) above, or such longer period as the Commissioner may agree in writing, receive confirmation from the authority concerned that they have taken action, as proposed, to the satisfaction of the Commissioner,

he may, by notice to the authority, require them to arrange for a statement to be published in accordance with subsections (2E) and (2F) below.

(2E) The statement referred to in subsection (2D) above is a statement, in such form as the authority concerned and the Commissioner may agree, consisting of—

- (a) details of any action recommended by the Commissioner in his further report which the authority have not taken;
- (b) such supporting material as the Commissioner may require; and
- (c) if the authority so require, a statement of the reasons for their having taken no action on, or not the action recommended in, the report.

(2F) The requirements for the publication of the statement are that—

- (a) publication shall be in any two editions within a fortnight of a newspaper circulating in the area of the authority agreed with the Commissioner or, in default of agreement, nominated by him; and
- (b) publication in the first such edition shall be arranged for the earliest practicable date.

(2G) If the authority concerned—

- (a) fail to arrange for the publication of the statement in accordance with subsections (2E) and (2F) above, or
- (b) are unable, within the period of one month beginning with the date on which they received the notice under subsection (2D) above, or such longer period as the Commissioner may agree in writing, to agree with the Commissioner the form of the statement to be published,

the Commissioner shall arrange for such a statement as is mentioned in subsection (2E) above to be published in any two editions within a fortnight of a newspaper circulating within the authority's area.

(2H) The authority concerned shall reimburse the Commissioner on demand any reasonable expenses incurred by the Commissioner in performing his duty under subsection (2G) above.]

[<sup>F71</sup>(3) In any case where—

- (a) a report is laid before an authority under subsection [<sup>F72</sup>(2) or (2C)] above, and
- (b) on consideration of the report, it appears to the authority that a payment should be made to, or some other benefit should be provided for, a person who has suffered injustice in consequence of maladministration [<sup>F73</sup>to which the report relates],

the authority may incur such expenditure as appears to them to be appropriate in making such a payment or providing such a benefit.]

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#### Textual Amendments

- F70** S. 29 subsections (1)–(2H) substituted for subsections (1) to (2A) by [Local Government and Housing Act 1989 \(c. 42, SIF 81:2\)](#), [s. 27\(1\)\(3\)](#)
- F71** S. 29(3) added by [Local Government Act 1978 \(c. 39, SIF 81:1\)](#), [s. 1](#)
- F72** Words substituted by virtue of [Local Government and Housing Act 1989 \(c. 42, SIF 81:1\)](#), [s. 194\(1\)](#), [Sch. 11 para. 44](#)
- F73** Words substituted by [Local Government Act 1988 \(c. 9, SIF 81:1\)](#), [s. 29](#), [Sch. 3 para. 15\(b\)](#)

#### [<sup>F74</sup>29A Consideration of adverse reports.

- (1) Subject to subsection (3) below, any power of an authority to have their functions discharged by any person or body of persons acting for the authority shall, as respects the consideration of a further report of the Commissioner under section 29(2A) of this Act, be subject to the restriction that, if it is proposed to take no action on, or not the action recommended in, the report, consideration of the report shall be referred to the authority.
- (2) Consideration of a further report of the Commissioner under section 29(2A) of this Act by—
  - (a) any such committee as is mentioned in section 23(2) of this Act; or
  - (b) an education committee appointed under section 124 of the Act of 1973;shall be subject to a corresponding restriction.
- (3) The restriction imposed by subsections (1) and (2) above does not apply where the report recommends action to be taken by a joint committee—
  - (a) established under section 56 of the Act of 1973 or under paragraph 7 of Schedule 10 or paragraph 6 of Schedule 20 to that Act (local authority, education and social work joint committees); or
  - (b) referred to in paragraph (a), (b), or (e) of section 23(2) of this Act (fire, police and local government and teachers' superannuation joint committees).
- (4) If an authority considering a further report of the Commissioner under section 29(2A) of this Act take into consideration a report by a person or body with an interest in the Commissioner's report, they shall not conclude their consideration of the Commissioner's report without also having taken into consideration a report by a person or body with no interest in the Commissioner's report.
- (5) No member of an authority to which this Part of this Act applies or of a committee mentioned in subsection (2) or (3) above shall vote on any question with respect to a report or further report under this Part of this Act in which he is named and criticised by the Commissioner.]

#### Textual Amendments

- F74** S. 29A inserted by [Local Government and Housing Act 1989 \(c. 42, SIF 81:2\)](#), [s. 29](#)

#### 30 Law of defamation and limitation on disclosure of information by Commissioner.

- (1) For the purposes of the law of defamation, any such publication as is hereinafter mentioned shall be absolutely privileged, that is to say—

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- (a) the publication of any matter in communications between a member [<sup>F75</sup>or officer] of an authority and the Commissioner, or any of his officers, for the purposes of this Part of this Act;
  - (b) the publication of any matter by the Commissioner or any of his officers, in communicating with a complainant for the purposes of this Part of this Act;
  - (c) the publication of any matter in preparing, making and sending a report or statement in accordance with section 28 or 29 of this Act, or, subject to section 28(7) of this Act, in making [<sup>F76</sup>copies of a report available as provided by section 28(4) above];
  - (d) the publication of any matter contained in a report by the Commissioner which has been made available to the public, being publication by inclusion in a report made or published under section 21 of this Act.
  - [<sup>F77</sup>(e) the publication of any matter by inclusion in a statement published in accordance with section 29(2D), (2E) and (2F) or (2G) of this Act.]
- (2) Information obtained by the Commissioner, or any of his officers, in the course of or for the purposes of an investigation under this Part of this Act shall not be disclosed except—
- (a) for the purposes of the investigation and of any report to be made under section 28 or 29 of this Act; or
  - (b) for the purposes of any proceedings for an offence under the Official Secrets Acts 1911 to 1939 alleged to have been committed in respect of information obtained, by virtue of this Part of this Act, by the Commissioner or any of his officers or for an offence of perjury alleged to have been committed in the course of an investigation under this Part of this Act or for the purposes of an inquiry with a view to the taking of such proceedings, or
  - (c) for the purpose of any proceedings under section 27(9) of this Act,
- and the Commissioner and his officers shall not be called upon to give evidence in any proceedings (other than proceedings within paragraph (b) or (c) above) of matters coming to his or their knowledge in the course of an investigation under this Part of this Act.
- (3) A Minister of the Crown or any of the authorities mentioned in section 23 of this Act may give notice in writing to the Commissioner with respect to any document or information specified in the notice, or any class of documents or information so specified, that in the opinion of the Minister, or as the case may be of the authority, the disclosure of that document or information, or of documents or information of that class, would be contrary to the public interest; and where such a notice is given nothing in this Part of this Act shall be construed as authorising or requiring [<sup>F78</sup>the Commissioner or any member of his staff] to communicate to any other person, or for any purpose, any document or information specified in the notice, or any document or information of a class so specified:
- Provided that a notice given under this subsection by any authority may be discharged by the Secretary of State.
- (4) Nothing in subsection (3) above shall affect the obligations imposed by subsections (3) and (4) of section 27 of this Act.
- (5) Where information is disclosed in accordance with section 27(3) of this Act, being information which is derived from a communication from a government department, and which has not been made public, the Commissioner shall not without the written consent of an officer of the government department make a report which includes all

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or any of that information unless he has given the department not less than one month's notice in writing of his intention.

- (6) The provisions of this section shall apply to the Commissioners of Customs and Excise and Commissioners of Inland Revenue as they apply to a Minister of the Crown.

#### Textual Amendments

- F75** Words inserted by Local Government (Miscellaneous Provisions) (Scotland) Act 1981 (c. 23, SIF 81:2), **Sch. 1(e)**
- F76** Words substituted by Local Government Act 1988 (c. 9, SIF 81:2), s. 29, **Sch. 3 para. 16**
- F77** S. 30(1)(e) inserted by Local Government and Housing Act 1989 (c. 42, SIF 81:1), s. 194(1), **Sch. 11 para. 45**
- F78** Words substituted by Local Government, Planning and Land Act 1980 (c. 65, SIF 81:2), s. 184(2)

#### Modifications etc. (not altering text)

- C43** S. 30(2)(b) amended by Official Secrets Act 1989 (c. 6, SIF 39:2), s. 16(3), **Sch. 1 para. 1(f)**

### 31 Consultation between Commissioner, the Parliamentary Commissioner and the Health Service Commissioner.

- (1) If, at any stage in the course of conducting an investigation under this Part of this Act, the Commissioner forms the opinion that the complaint relates partly to a matter which could be the subject of an investigation—
- by the Parliamentary Commissioner, in accordance with section 5 of the Act of 1967, or
  - by the Health Service Commissioner for Scotland in accordance with [<sup>F79</sup>the Act of 1993],

he shall consult with the appropriate Commissioner about the complaint and, if he considers it necessary, inform the person initiating the complaint under this Part of this Act of the steps necessary to initiate a complaint under the Act of 1967 or under [<sup>F79</sup>the Act of 1993], as the case may be.

- (2) Where, by virtue of subsection (1) above, the Commissioner consults the Parliamentary Commissioner or the Health Service Commissioner in relation to a complaint under this Part of this Act, he may consult that Commissioner about any matter relating to the complaint, including—
- the conduct of any investigation into the complaint, and
  - the form, content and publication of any report of the results of such an investigation.

[<sup>F80</sup>(3) If, at any stage in the course of conducting an investigation under the Act of 1967, the Parliamentary Commissioner] forms the opinion that the complaint relates partly to a matter which could be the subject of an investigation under this Part of this Act, he shall consult with the Commissioner about the complaint and, if he considers it necessary, inform the person initiating the complaint <sup>F81</sup> . . . of the steps necessary to initiate a complaint under this Part of this Act.

- (4) Where, by virtue of subsection (3) above, the Commissioner is consulted about a complaint under the Act of 1967 <sup>F82</sup> . . ., subsection (2) above shall apply (with the necessary modifications) as it applies in relation to consultations held by virtue of subsection (1) above.

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- (5) Nothing in section 11(2) of the Act of 1967, [<sup>F83</sup>in section 15 of the Act of 1993], or in section 30(2) of this Act (restrictions of disclosure of information) shall apply in relation to the disclosure of information by any of the Commissioners mentioned in this section, or by any of their officers, in the course of consultations held in accordance with this section.
- (6) In this section the “<sup>M24</sup>Act of 1967” means the Parliamentary Commissioner Act 1967 and [<sup>F84</sup>the “Act of 1993” means the Health Service Commissioners Act 1993.]

#### Textual Amendments

- F79** Words in s. 31(1) substituted (5.2.1994) by virtue of 1993 c. 46, ss. 20, 22(4), **Sch. 2 para. 6(2)** (with s. 3(4)).
- F80** Words in s. 31(3) substituted (5.2.1994) by 1993 c. 46, ss. 20, 22(4), **Sch. 2 para. 6(3)(a)** (with s. 3(4)).
- F81** Words in s. 31(3) repealed (5.2.1994) by 1993 c. 46, ss. 20, 22(4), **Sch. 2 para. 6(3)(b) Sch. 3** (with s. 3(4)).
- F82** Words in s. 31(4) repealed (5.2.1994) by 1993 c. 46, ss. 20, 22(4), **Sch. 2 para. 6(4)**(with s. 3(4)).
- F83** Words in s. 31(5) substituted (5.2.1994) by 1993 c. 46, ss. 20, 22(4), **Sch. 2 para. 6(5)**(with s. 3(4)).
- F84** Words in s. 31(6) substituted (5.2.1994) by 1993 c. 46, ss. 20, 22(4), **Sch. 2 para. 6(6)**(with s. 3(4)).

#### Modifications etc. (not altering text)

- C44** S. 31(1)-(5) extended (1.7.1999) by S.I. 1999/1351, **arts. 1, 17(3)**; S.I. 1998/3178, **art. 3**

#### Marginal Citations

- M24** 1967 c. 13.

## 32 Interpretation of Part II.

- (1) In this Part of this Act, unless the context otherwise requires—
- “action” includes failure to act, and other expressions connoting action shall be construed accordingly;
- “the Commissioner” means the Commissioner for Local Administration in Scotland;
- “person aggrieved” means the person who claims or is alleged to have sustained any such injustice as is mentioned in section 24(1) of this Act;
- “the Parliamentary Commissioner” means the Parliamentary Commissioner for Administration;
- “the designated body” means the body designated under section 22 of this Act;
- “tribunal” includes the person constituting a tribunal consisting of one person.
- (2) It is hereby declared that nothing in this Part of this Act authorises or requires the Commissioner to question the merits of a decision taken without maladministration by an authority in the exercise of a discretion vested in that authority.
- [<sup>F85</sup>(2A) Except in the case of a joint board or joint committee, references in this Part of this Act to the authority concerned are, in relation to action taken by or on behalf of an authority to whom this Part of this Act applies (whether by virtue of subsection (1) or (2) of section 23 of this Act), references to that authority.]

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### Textual Amendments

**F85** S. 32(2A) inserted by [Local Government and Housing Act 1989 \(c. 42, SIF 81:2\)](#), s. 27(2)(3)

## PART III

### MISCELLANEOUS AND GENERAL

#### 33 Allowances for members of children’s panels and Children’s Panel Advisory Committees

In Schedule 3 to the <sup>M25</sup>Social Work (Scotland) Act 1968 (children’s panels), for paragraph 8 there shall be substituted the following paragraph—

- “8 (1) A local authority may pay—
- (a) to a member or possible member of the children’s panel in respect of his attendance at a children’s hearing or at training arranged under paragraph 6 or 7 of this Schedule ;
  - (b) to a member of the Children’s Panel Advisory Committee, who is not also a member of a body to which sections 45 and 46 of the Local Government (Scotland) Act 1973 appl, in respect of his attendance at a meeting of the Committee ;
  - (c) to a memembr or possible member of the children’s panel or to such a member of the Children’s Advisory Committee as aforesaid in respect of the doing by him of anything approved by the authority, or anything of a class so approved, for the purpose of, or in connection with, the discharge of the functions of the panel or Committee, as the case may be ;

allowances, in the nature of those payable under sections 45(4) and 46(1) of the said Act of 1973, being payments of such reasonable amounts as they may determine in any particular case or class of case and not exceeding the amounts prescribed under the sid section 45(4) and specified under the said section 46(1) for the corresponding allowances under those provisions.

- (2) A local authority may pay to a member of the Children’s Advisory Committee who is also a member of a body to which sections 45 and 46 of the said Act of 1973 apply—
- (a) in respect of this attendance at a meeting of the Committee ;
  - (b) in respect of the doing by him of anything approved by the authority, or anything of a class so approved, for the purposes of, or in connection with, the discharge of the functions of the Committee ;

allowances, in the nature of those payable under the said section 45 and subsection (1) of the said section 46, being payments of such reasonable amounts as they may determine in any particluar case or class of case and not exceeding the amounts prescribed under the said section 45 and specified under subsection (1) of the said section 46 for the corresponding allowances under those provisions.”.

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#### Modifications etc. (not altering text)

**C45** The text of ss. 33 and 38(2) is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

#### Marginal Citations

**M25** 1968 c. 49.

### 34 Transference of social workers of Health Boards to local authority employment.

- (1) The Secretary of State may by order make provision for the transfer to the employment of local authorities of persons of descriptions specified in the order who are for the time being employed in social work by Health Boards; and the order may include provision—
  - (a) for transfers in pursuance of the order to be made on such days as may be determined by or under the order; and
  - (b) as to the manner of determining whether an individual is a person liable to be transferred by virtue of this subsection and which authority is the authority to whose employment such a person is to be transferred.
- (2) A person transferred by virtue of subsection (1) above to the employment of a local authority shall not be required in the course of that employment to perform duties otherwise than at or in connection with a hospital or other health service establishment unless he has consented to perform such duties.
- (3) It shall be the duty of the Secretary of State by order to make provision for securing, in the case of a person transferred to the employment of a local authority by virtue of subsection (1) above—
  - (a) that, while he is in the employment of that authority and has not been served with a notice in writing stating that it is served for the purposes of this subsection and specifying such new terms and conditions of employment as are mentioned in paragraph (b) below, the scale of his remuneration and, taken as a whole, the other terms and conditions of his employment by that authority are not less favourable to him than were immediately before the transfer those of the employment by the Health Board;
  - (b) that any new terms and conditions determined by that authority for his employment by them are such that—
    - (i) so long as he is engaged in duties reasonably comparable to the duties in which immediately before the transfer he was engaged in the employment by the Health Board, the scale of his remuneration and, taken as a whole, the other terms and conditions of his employment by that authority are not less favourable to him than were, immediately before the transfer, those of the employment by the Health Board, and
    - (ii) so long as he is engaged in duties not so comparable, the terms and conditions of his employment by that authority (excluding terms as to remuneration) are, taken as a whole, not less favourable than as mentioned in sub-paragraph (i) above;
  - (c) that for the purposes of any enactment specified in the order the employments from which and to which he was transferred by virtue of subsection (1) above are treated as one continuous employment;



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and an order made in pursuance of this subsection may contain provision for the determination of questions arising with respect to the effect in relation to any person of provision made by virtue of paragraphs (a) to (c) above.

- (4) A statutory instrument containing any order under this section shall be subject to annulment in pursuance of a resolution of either House of Parliament.

### 35 Orders and regulations.

- (1) Any power to make orders or regulations conferred on the Secretary of State by any provision of this Act shall be exercisable by statutory instrument.
- (2) Any power to make an Order in Council or other order under any provision of this Act shall include power to make an order varying or revoking any order previously made under that provision.
- (3) Any order under this Act may contain such incidental, consequential and supplementary provisions as appear to the Secretary of State to be necessary or proper for bringing the order into operation and giving full effect thereto.

### 36 Expenses.

There shall be defrayed out of money provided by Parliament—

- (a) any administrative expenses incurred by the Secretary of State under this Act;
- (b) any increase attributable to the provisions of this Act in the sums payable out of such money under any other enactment.

### 37 General interpretation.

- (1) In this Act, unless the context otherwise requires—
- “the <sup>M26</sup>Act of 1947” means the Local Government (Scotland) Act 1947;
- “the <sup>M27</sup>Act of 1966” means the Local Government (Scotland) Act 1966;
- “the <sup>M28</sup>Act of 1973” means the Local Government (Scotland) Act 1973;
- “the Assessor” means the Assessor of Public Undertakings (Scotland);
- [<sup>F86</sup> apportionment note” shall be construed in accordance with the provisions of paragraph 1 of Schedule 5 to the Local Government Finance Act 1992;]
- “material change of circumstances” means in relation to any lands and heritages a change of circumstances affecting their value and, without prejudice to the foregoing generality, includes any alteration in such lands and heritages . . . <sup>F87</sup> any relevant decision of the Lands Valuation Appeal Court or a valuation appeal committee for the valuation area in which the lands and heritages are situated [<sup>F88</sup> or the Lands Tribunal for Scotland under section 1(3A) of the Lands Tribunal Act 1949], [<sup>F89</sup> and any decision of that Court, committee or Tribunal which alters the . . . <sup>F90</sup> net annual value or rateable value of any comparable lands and heritages;]
- [<sup>F91</sup> non-domestic rate” shall be construed in accordance with the provisions of section 7A of this Act;
- “part residential subjects” shall be construed in accordance with the provisions of section 99(1) of the Local Government Finance Act 1992;]

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“prescribed”, except in paragraph 6 of Schedule 3, means prescribed by an order made by the Secretary of State [<sup>F92</sup>], and cognate expressions shall be construed accordingly];

<sup>F93</sup>

“the Valuation Acts” means the <sup>M29</sup>Lands Valuation (Scotland) Act 1854, the Acts amending that Act, [<sup>F94</sup>] and any other enactment relating to valuation];

“year”, except in paragraph 2 of Schedule 4, means the financial year of a local authority;

“year of revaluation” means [<sup>F95</sup>the year 1985-86] and each fifth year thereafter.

- (2) Expressions used in this Act and in the Act of 1973 shall have the same meanings in this Act as in that Act.
- [<sup>F96</sup>(3) The Secretary of State may by order amend the definition of “year of revaluation” in subsection (1) above by substituting, for the financial year for the time being specified in that definition by reference to two calendar years, a different financial year so specified.
- (4) An order under subsection (3) above shall have no effect until approved by resolution of each House of Parliament.]

#### Textual Amendments

- F86** Definition of “apportionment note” inserted (1.10.1992) by [Local Government Finance Act 1992](#) (c. 14), s. 117(1), **Sch. 13 para. 43(a)** (with s. 118(1)(2)(4)); S.I. 1992/2183, **art. 2(c)** (with art. 3).
- F87** Word repealed by [Rating and Valuation \(Amendment\) \(Scotland\) Act 1984](#) (c. 31, SIF 103:2), **s. 20(a)**
- F88** Words inserted by [Rating and Valuation \(Amendment\) \(Scotland\) Act 1984](#) (c. 31, SIF 103:2), s. 21, **Sch. 2**
- F89** Words substituted by [Rating and Valuation \(Amendment\) \(Scotland\) Act 1984](#) (c. 31, SIF 103:2), **s. 20(b)**
- F90** Words repealed by [Abolition of Domestic Rates Etc. \(Scotland\) Act 1987](#) (c. 47, SIF 81:2), s. 34, **Sch. 6**
- F91** Definitions of “non-domestic rate” and “part residential subjects” inserted (1.10.1992) by [Local Government Finance Act 1992](#) (c. 14), s. 117(1), **Sch. 13 para. 43(b)** (with s. 118(1)(2)(4)); S.I. 1992/2183, **art. 2(c)** (with art. 3).
- F92** Words inserted (1.10.1992) by [Local Government Finance Act 1992](#) (c. 14), s. 117(1), **Sch. 13 para. 43(c)** (with s. 118(1)(2)(4)); S.I. 1992/2183, **art. 2(c)** (with art. 3).
- F93** Definition of “Rate” repealed (1.4.1992) by [Local Government Finance Act 1992](#) (c. 14), s. 117(2), **Sch. 14** (with s. 118(1)(2)(4)); S.I. 1992/818, art. 2(b), **Sch.**
- F94** Words substituted by [Abolition of Domestic Rates Etc. \(Scotland\) Act 1987](#) (c. 47, SIF 81:2, 103:2) s. 6, Sch. 1 Pt. III para. 33
- F95** Words substituted by S.I. 1982/1122, **art. 2**
- F96** S. 37(3)(4) added by [Local Government \(Miscellaneous Provisions\) \(Scotland\) Act 1981](#) (c. 23, SIF 81:2), **s. 1**

#### Modifications etc. (not altering text)

- C46** S. 37(1) modified by [Abolition of Domestic Rates Etc. \(Scotland\) Act 1987](#) (c. 47, SIF 81:2, 103:2), **s. 5(4)(5)**  
S. 37(1) modified (for the financial years 1995-96 to 1999-2000) by S.I. 1995/371, **arts. 1, 9(4)**  
S. 37(1) modified (for the financial years 1995-96 to 1999-2000) by S.I. 1995/372, **arts. 1, 8(4)**

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#### Marginal Citations

- M26 1947 c. 43.
- M27 1966 c. 51.
- M28 1973 c. 65.
- M29 1854 c. 91.

### 38 Minor and consequential amendments and repeals.

- (1) Part I of Schedule 6 to this Act shall have effect for the purpose of making general adaptation of enactments consequential on section 5 of this Act, and of the Valuation Acts and of any enactment having effect by virtue of those Acts consequential on section 18 of this Act, and the enactments specified in Part II of that Schedule shall have effect subject to the modifications and amendments set out in that Part, being modifications and amendments which are consequential on the provisions of this Act and minor amendments.
- (2) The enactments specified in Schedule 7 to this Act are hereby repealed to the extent specified in the third column of that Schedule.

#### Modifications etc. (not altering text)

- C47 The text of ss. 33 and 38(2) is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

### 39 Short title, commencement, construction, savings and extent.

- (1) This Act may be cited as the Local Government (Scotland) Act 1975.
- (2) This Act (except this section) shall come into operation on such day as the Secretary of State may by order appoint, and different days may be appointed under this subsection for different provisions of this Act or for different purposes, or for the purposes of the same provision in relation to different cases.
- (3) Any reference in this Act to the commencement of any provision thereof shall be construed as a reference to the day when that provision comes into force.
- (4) Any reference in this Act to any other enactment shall be construed as referring to that enactment as amended by or under any other enactment, including this Act.
- (5) Any proceedings pending before a valuation appeal committee or the Lands Valuation Appeal Court before the commencement of this Act may be continued as if they had been brought by virtue of this Act.
- (6) This Act, except paragraph 5 of Schedule 3 and except in so far as it relates to the <sup>M30</sup>House of Commons Disqualification Act 1975 and the <sup>M31</sup>Northern Ireland Assembly Disqualification Act 1975, extends to Scotland only.

#### Modifications etc. (not altering text)

- C48 Power of appointment conferred by s. 39(2) fully exercised: S.I. 1975/824, 1055

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#### Marginal Citations

**M30** 1975 c. 24.

**M31** 1975 c. 25.

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## SCHEDULES

### SCHEDULE 1

. . . F97

#### Textual Amendments

**F97** Sch. 1 repealed by [Local Government Finance Act 1988 \(c. 41, SIF 81:1\)](#), s. 149, **Sch. 13 Pt. IV**

### SCHEDULE 2

Section 12.

#### AMENDMENT OF PROVISIONS OF LOCAL GOVERNMENT (SCOTLAND) ACT 1966 RELATING TO RATE SUPPORT GRANTS

#### Modifications etc. (not altering text)

**C49** The text of Sch. 2 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

1 For section 2 (rate support grants), there shall be substituted the following section—

#### “2 Rate support grants.

- (1) Subject to the provisions of this Part of this Act, the Secretary of State shall, for each year, make grants to the local authorities in Scotland in accordance with this section ; and any grants made in pursuance of this subsection shall be known as “rate support grants”.
- (2) For the purpose of fixing the estimated aggregate amount of the rate support grants for any year the Secretary of State shall determine—
  - (a) the aggregate amount which he estimates is to be available for the payment out of moneys provided by Parliament of grants (other than housing subsidies) to local authorities in respect of their relevant expenditure for that year ; and
  - (b) the portion of that amount which the Secretary of State estimates will be allocated of grants in respect of such services as the Secretary of State may determine ;
 and the amount remaining after deducting that portion from the aggregate amount aforesaid shall, subject to section 4 of this Act, be the estimated aggregate amount of the rate support grants for that year.
- (3) Before determining the amount and the portion mentioned in paragraphs (a) and (b) of subsection (2) above, the Secretary of State shall consult with such

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associations of local authorities as appear to him to be concerned and shall take into consideration—

- (a) the latest information available to him as to the rate of relevant expenditure ;
  - (b) any probable fluctuation in the demand for services giving rise to relevant expenditure so far as the fluctuation is attributable to circumstances prevailing in Scotland as a whole which are not under the control of local authorities ;
  - (c) the need for developing those services and the extent to which, having regard to general economic conditions, it is reasonable to develop those services ; and
  - (d) the current level of prices, costs and remuneration and any future variation in that level which in the opinion of the Secretary of State will result from decisions which appear to him to be final and which will have the effect of increasing or decreasing any particular prices, costs or remuneration.
- (4) After consultation with such associations of local authorities as appear to the Secretary of State to be concerned, the estimated aggregate amount of the rate support grants for any year shall be divided by the Secretary of State into three parts (to be known respectively as “the needs element”, “the resources element” and “the domestic element”) and the amounts of the needs element and the domestic element and the estimated amount of the resources element shall be as such as may be prescribed ; and the provisions of Schedule 1 to this Act shall, subject to sections 4 and 5 of this Act, have effect with respect to the determination of the amounts payable to any local authority in respect of those elements for any year and with respect to the other matters there mentioned.
- (5) Payments in respect of elements of rate support grants shall be made to any local authority at such times as the Secretary of State may, with the consent of the Treasury, determine and shall be made in aid of the revenues of the authority generally.
- (6) Subject to subsection (7) below, the Secretary of State may—
- (a) defray any expenditure incurred in any year in the provision of services for local authorities by any body specified in regulations made by the Secretary of State ; and
  - (b) deduct from the aggregate amount of the needs element for that year such amount, not exceeding the total of the expenditure so defrayed, as appears to him to be appropriate.
- (7) Before exercising his powers under subsection (6) above, the Secretary of State shall consult with such associations of local authorities as appear to him to be concerned.
- (8) In this section—
- “housing subsidies” means such grants to local authorities out of moneys provided by Parliament for housing as may be determined by the Secretary of State to be housing subsidies for the purposes of this section ;
- “relevant expenditure”, in relation to any year, means the sum of the following amounts as estimated by the Secretary of State—

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- (a) the amount of the expenditure for that year falling to be paid out of the rates of a local authority, and
  - (b) an amount equal to the amount receivable by the local authority for that year as grants (within the meaning of section 2(2)(a) of this Act) and as payments under Part V of the Local Government Act 1948,
- reduced by the amount estimated as aforesaid, in whole or in part, of such payments relating to housing and of such payments of other descriptions falling to be made for that year as the Secretary of State may determine.”.
- 2 In section 3(1) (rate support grant orders), for the words “The aggregate” there shall be substituted the words “ The estimated aggregate ”.
- 3 For section 4 (variation of orders, etc.), there shall be substituted the following section—

**“4 Variation of orders.**

- (1) If it appears to the Secretary of State that, after the time when the amount mentioned in section 2(2)(a) of this Act was determined for any year, the relevant expenditure of local authorities for that year has been or is likely to be substantially increased by reason of—
- (a) an increase which has taken place in the level of prices, costs or remuneration, or
  - (b) the coming into operation of a provision of an enactment passed after this Act,
- and that no account was taken of that increase or, as the case may be, the effect of that provision when the amount mentioned as aforesaid was so determined, he may at any time redetermine for that year the amount and portion mentioned in section 2(2)(a) and (b) of this Act and, by an order made in the like manner and subject to the like provisions as a rate support grant order, may increase the amount fixed by the relevant rate support grant order as the estimated aggregate amount of the rate support grants and any element of the grants for that year.
- (2) The provisions of sections 2 and 3 of this Act relating to consultation and to a report of the considerations leading to a determination under the said section 2 shall apply to a redetermination under this section as they apply to a determination under that section ; and the Secretary of State may, if he considers it practicable, incorporate an order under this section in a rate support grant order.
- (3) In redetermining under this section the amount and portion mentioned in section 2(2)(a) and (b) of this Act, the Secretary of State—
- (a) shall take into account not only the effect of the increase referred to in paragraph (a) of subsection (1) above or, as the case may be, the provision referred to in paragraph (b) of that subsection, but also any future variation in the level of prices and remuneration current at the time of the redetermination which in his opinion will result from any decisions as are referred to in section 2(3)(d) of this Act, and
  - (b) except in the case of a change resulting from the coming into operation of any enactment passed after this Act, shall take no account of any change, as compared with the situation at the time that amount and that portion were determined for the purposes of

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the relevant rate support grant order, in the demand for services giving rise to relevant expenditure, in the need for developing those services or in the extent to which those services have been developed.

- (4) An order made under subsection (1) above in respect of any year shall specify the actual (and not the estimated) aggregate amount of the resources element for that year.
- (5) If, in the case where the Secretary of State proposes to make an order under subsection (1) above in respect of any year, it appears to him that, apart from any provision made by virtue of this subsection, the effect of the order and of any other order under subsection (1) above which he considers likely to be made in respect of that year would be that the ratio between the actual aggregate amount of the resources element for that year and the aggregate amount of the needs element for that year would be significantly different from the ratio (in this subsection referred to as “the expected ratio”) between the estimated aggregate amount of the resources element for that year, as fixed by the relevant rate support grant order, and the aggregate amount of the needs element, as so fixed, he may in the order under subsection (1) above—
- (a) specify as the aggregate amount of the resources element for that year such amount as, in his estimation, will secure that (taking account of the effect of any further orders likely to be made under subsection (1) above in respect of that year) the ratio which the amount so specified will bear to the aggregate amount of the needs element for that year will be the expected ratio; and
  - (b) in order to secure that the total amount paid in respect of the resources element to local authorities entitled to payments in respect of that element does not exceed the amount specified as mentioned in paragraph (a) above, make provision varying the amount payable to each such authority in respect of that element.
- (6) Without prejudice to subsection (5) above, an order made under subsection (1) above with respect to any year may, as respects that year, vary the matters prescribed by the relevant rate support grant order.
- (7) In this section “relevant expenditure” has the same meaning as in section 2 of this Act.”.
- 4 In section 7(1) (reduction of rates on dwellings by reference to the domestic element), after the words “that year” there shall be inserted the words “ for their area ”.
- 5 In Part I of Schedule 1 (the needs element)—
- (a) after paragraph 1 there shall be inserted the following paragraph—
    - “2 (1) Notwithstanding the provisions of paragraph 1 above, the Secretary of State may, as respects any year, make provision for the apportionment of a prescribed part of the needs element among authorities incurring extraordinary expenses, by reference to so much of the estimated extraordinary expenses of each such authority as he may determine to be appropriate to be taken into account for the purposes of this paragraph.



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(2) In this paragraph “extraordinary expenses” means expenses of such categories and for such purposes as the Secretary of State, after consultation with such associations of local authorities as appear to him to be concerned, may determine should be supported by an apportionment under this paragraph ; and in determining the amount of the estimated extraordinary expenses of an authority to be taken into account for any year, the Secretary of State—

- (a) shall have regard to the expected income of that authority for that year ; and
  - (b) may have regard to the extent by which the extraordinary expenses for a previous year exceeded or fell short of the estimated extraordinary expenses of the authority for that year.” ;
- (b) in paragraph 3, for the words “the foregoing paragraphs” there shall be substituted the words “ paragraph 1 above ” and at the end there shall be added the words “ or of a prescribed amount of the needs element to such class of authorities or to any such authority as may be prescribed. ”.

6 For Part II of Schedule 1 there shall be substituted the following Part—

## “PART II

### THE RESOURCES ELEMENT

- 1 No payment in respect of the resources element shall be made to a local authority for any year unless in that year the product of a rate of one penny in the pound for the authority’s area is less than the standard penny rate product for the area.
- 2 Subject to any provision made by virtue of section 4(5) of this Act and to paragraph 3 below, the amount of the resources element payable to a local authority for any year shall be the product of—
  - (a) the number of pence in the pound of the regional, general or district rate, as the case may be or, where the Secretary of State is of the opinion that the local authority have fixed an unnecessarily high rate, such lesser number of pence in the pound of that rate as the Secretary of State considers appropriate, and
  - (b) the difference between the rate products mentioned in paragraph 1 above.
- 3 (1) If, after the amount of the resources element payable to a local authority for any year has been determined under paragraph 2 above—
  - (a) the rateable values of lands and heritages in the authority’s area are reduced with effect from a date on or before that which is relevant for determining the product of a rate of one penny in the pound for the authority’s area for that year ; and
  - (b) the effect of the reduction is to produce a reduction in the said product which is of such a magnitude that, expressed as a percentage of the initially ascertained figure, it exceeds

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such percentage as may be specified for the purposes of this paragraph in regulations made by the Secretary of State ; and

- (c) the authority by notice in writing request the Secretary of State to give a direction under this paragraph ;

the Secretary of State shall direct that the amount of the resources element payable to the authority for that year shall be recalculated in accordance with the following provisions of this paragraph and a further payment on account of that element shall be made to the local authority accordingly.

- (2) Where sub-paragraph (1) above applies—

- (a) the product of a rate of one penny in the pound for the local authority’s area for the year concerned shall be recalculated by treating the initially ascertained figure as reduced by the amount of the excess referred to in sub-paragraph (1)(b) above ;
- (b) subject to any provisions made by virtue of section 4(5) of this Act, paragraph 2 above shall have effect accordingly for the purposes of determining the amount which, on the basis of that recalculation, would have been payable to the authority for that year.

- (3) The further payment referred to in sub-paragraph (1) above shall be an amount equal to the difference between the amount previously paid to the authority for the year concerned on account of the resources element and the amount determined as mentioned in sub-paragraph (2)(b) above.

- (4) In this paragraph “the initially ascertained figure”, in relation to any year, means the product of a rate of one penny in the pound ascertained for the purposes of paragraph 2 above.

- (5) The provisions of this paragraph shall have effect notwithstanding that the actual aggregate amount of the resources element for the year concerned may have been specified in an order under section 4(1) of this Act, and if any amount has been so specified it shall be treated as having been increased to such amount as may be necessary to provide for any further payment made to a local authority under this paragraph.”

7

In paragraph 1 of Part III of Schedule 1 (the domestic element), at the end there shall be added the words “ and different amounts in the pound may be so prescribed for the areas of different rating authorities ”.

### SCHEDULE 3

Section 16.

#### BORROWING AND LENDING BY LOCAL AUTHORITIES AND CERTAIN OTHER BODIES AND CERTAIN OF THEIR FUNDS

##### *Borrowing*

- 1 (1) Without prejudice to section 69 of the Act of 1973 (subsidiary powers of local authorities), a local authority may borrow such sums as may be required for any of the following purposes—
- (a) for acquiring any land which the authority have power to acquire;
  - (b) for erecting any building which the authority have power to erect;
  - (c) for the execution of any permanent work or the provision of any plant or the doing of any other thing which the authority have power to execute, provide or do and which involves expenses of a capital nature or for the payment of any sum of a capital nature;
  - (d) for the purpose of lending to a relevant authority or to any community council established for the area of the local authority or any part thereof under Part IV of the Act of 1973;
  - (e) for any other purpose for which the authority are authorised under any enactment to borrow.
- [<sup>F98</sup>(2) With the consent of the Secretary of State, a local authority may borrow, on such terms and conditions as to repayment as the Secretary of State may in so consenting allow, such sums as are required to meet expenses, other than expenses to which sub-paragraph (1) above relates, which the authority have power to incur in the exercise of any of their functions (excluding functions relating to a public utility undertaking); but the Secretary of State shall give such consent only if satisfied that the expenses are of such a nature that they should be met by such borrowing.]
- (3) A local authority may borrow such sums as are necessary in order to provide working capital or to meet any other expenses, not being expenses of a capital nature, required for the purposes of any public utility undertaking carried on by the authority:
- Provided that—
- (a) the total sums borrowed under this sub-paragraph and for the time being outstanding shall not, except with the consent of the Secretary of State, exceed an amount representing one half of the gross revenue of the undertaking for the immediately preceding financial year;
  - (b) any sum borrowed under this sub-paragraph to defray expenses shall be repaid as soon as reasonably practicable and in any case before the expiration of the period within which money borrowed to meet such expenses is ordinarily repaid in the case of such an undertaking, so however that any sum borrowed under this sub-paragraph shall be repaid before the expiration of two years from the date of borrowing, unless the consent of the Secretary of State is obtained to repayment thereof being spread over a longer period, and such consent may be given subject to such conditions as the Secretary of State may determine.
- (4) Sub-paragraphs (1)(a), (b) and (c) and (2) above shall apply to a water development board and to a river purification board as they apply to a local authority.

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- (5) In this paragraph “public utility undertaking” means a transport or other revenue-producing undertaking of a local authority.

#### Textual Amendments

**F98** Sch. 3 para. 1(2) substituted by [Local Government \(Miscellaneous Provisions\) \(Scotland\) Act 1981 \(c. 23, SIF 81:2\), s. 27](#)

- 2 (1) Where a local authority are authorised under a statutory borrowing power to borrow money, they may raise the money—
- (a) by mortgage,
  - (b) by overdraft from a bank,
  - (c) by the issue of stock,
  - (d) by the issue of bonds,
  - (e) by the issue of bills,
  - (f) by an agreement entered into with the Public Works Loan Commissioners under section 2 of the <sup>M32</sup>Public Works Loans Act 1965, or
  - (g) by any other means approved by the Secretary of State with the consent of the Treasury.
- (2) The powers conferred by this paragraph shall be exercisable subject to and in accordance with the following provisions of this Schedule; and a local authority having power under a local enactment to borrow money by way of any method referred to in sub-paragraph (1) above shall not exercise that power in accordance with the provisions of that enactment.

#### Marginal Citations

**M32** 1965 c. 63.

- 3 A local authority may borrow by way of temporary loan or overdraft from a bank or otherwise any sums which they may temporarily require—
- (a) for the purpose of defraying expenses (including the payment of sums due by them to meet the expenses of other authorities) pending the receipt of revenues receivable by them in respect of the year in which those expenses are chargeable;
  - (b) for the purpose of the raising of a loan in the exercise of any statutory borrowing power.
- 4 The power of a local authority to borrow money by any means includes power to raise money by those means outside the United Kingdom or in a foreign currency, but only with the consent of, and in accordance with any conditions specified by, the Treasury.
- 5 (1) The Secretary of State may by regulations made with the consent of the Treasury—
- (a) prescribe the form of any mortgage to be entered into for the purpose of any borrowing by a local authority,
  - (b) regulate the issue of stocks and bonds or the creation of any other security for any such purpose, including the terms on which they are to be issued or created,

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- (c) regulate the manner of transfer, dealing with and redeeming any mortgage created, or stocks or bonds issued or any other security created for any such purpose,
  - (d) apply all or any of the provisions of sections 194 and 197 of the Act of 1973 (execution of deeds and inspection and deposit of documents) with or without modifications, to any such mortgage, stock, bonds or other security,
  - [<sup>F99</sup>(dd) make provision for the custody and, where appropriate, eventual destruction of documents relating to any such stocks or bonds,]
  - (e) make such incidental, consequential and supplemental provision as appears to the Secretary of State to be necessary or proper for bringing the regulations into operation and giving them full effect.
- (2) Different provisions may be made under this paragraph for securities of different classes.
- (3) A statutory instrument containing regulations under this paragraph shall be subject to annulment in pursuance of a resolution of either House of Parliament.

#### Textual Amendments

**F99** Sch. 3 para. 5(1)(dd) inserted by Stock Transfer Act 1982 (c. 41, SIF 69), s. 5(2)

- 6 (1) A local authority may borrow by the issue of bills, payable within twelve months from the date of issue—
- (a) any sum which they are authorised to borrow under a statutory borrowing power; or
  - (b) such sums as may be required for the purpose of defraying expenses (including those payable by them to meet the expenses of other local authorities) pending the receipt of revenues receivable by them in respect of the year in which those expenses are chargeable.
- (2) The aggregate of the amount outstanding on bills issued by a local authority under sub-paragraph (1) above shall not exceed—
- (a) a sum equal to such proportion of the authority's estimated gross income from [<sup>F100</sup>rates, [<sup>F101</sup>the council tax and the council water charge]] during the current year as may be prescribed by an order made by the Treasury; or
  - (b) if no such proportion is so prescribed, a sum equal to one-fifth of the authority's estimated gross income as aforesaid.
- (3) A local authority shall not borrow by the issue of bills in any year during which the authority's estimated gross income as aforesaid does not exceed £3 million or such other sum as may be prescribed by an order made by the Treasury.
- (4) A statutory instrument containing an order under this paragraph shall be subject to annulment in pursuance of a resolution of either House of Parliament.

#### Textual Amendments

**F100** Words substituted by Abolition of Domestic Rates Etc. (Scotland) Act 1987 (c. 47, SIF 81:2, 103:2), s. 6, Sch. 1 Pt. III para. 34

**F101** Words in Sch. 3 para. 6 substituted (1.4.1993) by Local Government Finance Act 1992 (c. 14), s. 117(1), Sch. 13 para. 44(a) (with s. 118(1)(2)(4)); S.I. 1993/575, art. 2(c).

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- 7 A local authority may issue bonds transferable by delivery (with or without endorsement) and other securities so transferable, but only with the consent of, and in accordance with any conditions specified by, the Treasury.
- 8 (1) Subject to the provisions of this paragraph and notwithstanding anything in any other enactment, all money borrowed under any statutory borrowing power by a local authority shall be secured upon the whole funds, rates and revenues of the authority and not otherwise; and all money borrowed by a local authority by whatever method shall be deemed to have the same charge and security and shall rank *pari passu*.
- In this sub-paragraph references to sums borrowed by a local authority shall be deemed to include references to any sum which was borrowed by some other authority, and which the local authority in consequence of a transfer of functions or otherwise are liable to repay to the creditors.
- (2) The interest and dividends for the time being payable in respect of money so borrowed by a local authority shall be the first charge on the rates and revenues comprising the security for the said money.
- (3) Sub-paragraphs (1) and (2) above shall not apply in the case of money borrowed for the purposes of the common good by an islands or district council having a common good, nor shall the security created by those sub-paragraphs include the common good of the islands area or district or the revenues thereof.
- (4) Sub-paragraphs (1) and (2) above shall not apply in the case of money borrowed by a local authority for the purposes of any trust under any deed of trust or other document, nor shall the security created by those sub-paragraphs include the funds held under any such trust.
- 9 Two or more local authorities may combine to exercise their powers of borrowing under this Schedule jointly, and where they do so—
- (a) any limit on the amount which each authority may borrow shall apply to the amount which each authority receive from the joint loan;
  - (b) paragraph 8 above shall apply to the money so borrowed as if references to a local authority were references to the local authority by whom the money is received.

#### *Loans*

- 10 (1) A local authority may lend to another authority mentioned in sub-paragraph (2) below, on such terms as may be agreed between them, such sums as that other authority may require for any purpose for which that other authority are authorised to borrow money by or under this Act or any other enactment; and they may also lend such sums as they consider appropriate to a community council established for their area or any part thereof, on such terms as may be agreed between them.
- (2) The authorities to whom sums may be lent under sub-paragraph (1) above are any authority to which section 118 of the Act of 1973 applies or any other public authority approved by the Secretary of State for the purposes of this paragraph.
- 11 (1) A local authority may make loans to a harbour authority for a harbour wholly or partly situated within the area of the local authority, on such terms as may be agreed between them, for any purpose for which the harbour authority are authorised to borrow money.

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- (2) In this paragraph “harbour” and “harbour authority” have the same meanings as in the <sup>M33</sup>Harbours Act 1964.

#### Marginal Citations

M33 1964 c. 40.

### Loans fund

- 12 (1) Subject to the following provisions of this Schedule, a local authority shall, as from 16th May 1975, establish a fund (“the loans fund”) which shall be applicable to all money borrowed by the authority and the redemption or repayment thereof and the payment of interest or dividends thereon and shall be part of the general fund of the authority; and the loans fund shall be administered in accordance with paragraphs 13 to 21 below.
- (2) A loans fund of an islands or district council shall not apply to money borrowed for the common good of the islands area or district.
- 13 (1) All capital assets and liabilities which are transferred to a local authority from an authority which ceases to exist on 16th May 1975, other than property which is subject to section 128 of the Act of 1973 or which is referred to in section 222(2) or 223 of that Act, shall be paid into or transferred to the loans fund of the local authority.
- (2) All investments transferred to the loans fund as from 16th May 1975 shall be entered in the accounts of the loans fund at the value shown on the account from which they are transferred.
- 14 Any statutory borrowing power vested in a local authority on or after 16th May 1975 shall be exercisable by them only in the following manner—
- (a) by borrowing in accordance with this Schedule and carrying to the loans fund such sums as are necessary to enable that fund to make to the appropriate borrowing account of the local authority or to a relevant authority the advances which are required for the purpose for which the statutory borrowing power is available; and
- (b) by making from the loans fund such advances to the appropriate borrowing account of the local authority or to a relevant authority, as the case may be.
- 15 (1) Subject to sub-paragraph (2) below [<sup>F102</sup>and to sub-paragraph (2) of paragraph 1 above], all sums advanced to a borrowing account of a local authority or to a relevant authority shall be repaid within the fixed period by equal yearly or half-yearly instalments of principal, or, where repayment is on the annuity system, by equal yearly or half-yearly instalments of principal and interest combined; and the authority shall in each year debit the borrowing account or charge to the relevant authority the sums required in that year for the repayment of the advance.
- (2) In any case where—

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- (a) a local authority make an advance to any person and the expenditure incurred in making the advance is defrayed by borrowing; and
- (b) the terms of that advance are such that repayment is to be made otherwise than by equal yearly or half-yearly instalments of principal or of principal and interest combined; and
- (c) apart from this sub-paragraph, the local authority would have no power, with respect to the expenditure referred to in paragraph (a) above, to vary the sums which would otherwise be debited or charged under sub-paragraph (1) above or to suspend their obligation under that sub-paragraph;

the local authority may, under sub-paragraph (1) above, debit to the borrowing account from which, or charge to the relevant authority by whom, the expenditure referred to in paragraph (a) above would otherwise fall to be defrayed, sums of different amounts (whether or not including instalments of principal) in respect of different years in order to take account of the terms on which their advance falls to be repaid.

- (3) Subject to paragraph 16 below, the first payment to the loans fund shall be made within twelve months, or where the money is repayable by half-yearly instalments within six months, from the date of the advance.

#### **Textual Amendments**

**F102** Words inserted by [Local Government \(Miscellaneous Provisions\) \(Scotland\) Act 1981 \(c. 23, SIF 81:2\)](#), [Sch. 3 para. 36\(a\)](#)

- 16 (1) Where a sum is advanced from the loans fund in accordance with paragraph 14 above for any of the following purposes—
- (a) meeting expenditure on the construction of new, or the extension or alteration of existing, works forming or to form part of an undertaking of revenue-producing character;
  - (b) carrying out on land any other operations, being operations of a prescribed kind or operations specified in relation to that land by direction of the Secretary of State;
  - (c) acquiring land for the purpose of the construction thereon of new, or the extension or alteration of existing, works forming or to form part of an undertaking of a revenue-producing character, or for the purpose of the carrying out thereon of operations of a kind prescribed by virtue of paragraph (b) above, or operations specified in relation to that land by direction of the Secretary of State;
  - (d) acquiring land specified by direction of the Secretary of State;

the authority may, subject to the consent of the Secretary of State, suspend in whole or in part any annual provision required under paragraph 15 above for the repayment from the borrowing account or by the relevant authority of the sum so advanced for such period (not being a period longer than the period during which the expenditure remains unremunerative or the period of five years from the commencement of the year next after that in which the expenditure commences to be incurred, whichever is the shorter) and subject to such conditions as the Secretary of State may determine.

- (2) Where any annual provision required to be made for the repayment of any sum has been suspended under sub-paragraph (1) above, a local authority may borrow for the purpose of payment, during the period of the suspension, of interest on that sum.



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- (3) Where by virtue of paragraph 15 above a local authority are required to debit a sum to the borrowing account or charge a sum to a relevant authority and they suspend, in whole or in part, any annual provision for the repayment of the principal, they may refrain from debiting to that account or charging to the relevant authority an amount equal to the amount of the annual provision so suspended.
- (4) In this paragraph “prescribed” means prescribed by regulations made by the Secretary of State.
- 17 (1) The authority shall at the time an advance is made under paragraph 14 above determine—
- (a) the period within which the advance is to be repaid to the loans fund, being a period not exceeding the fixed period; and
  - (b) the amount of each of the periodical payments required to repay the advance within the period so determined, and the date on which the first of the said payments is to be made.
- (2) The periodical payments shall be either equal yearly or half-yearly instalments of principal or, where the advance is to be repaid on the annuity system, equal yearly or half-yearly instalments of principal and interest combined, the amount of principal included in each instalment being separately stated.
- (3) The periodical payments shall so far as practicable be so adjusted as to be expressed in complete pounds.
- (4) This paragraph shall apply with the necessary modifications in the case of advances from the loans fund to a relevant authority.
- 18 In the event of it appearing at any time from a report by the Controller of Audit or otherwise that the authority specified therein have failed duly to make payment of interest or of the appropriate periodical sums required to be set aside for the repayment of advances made from the loans fund as aforesaid, or that the provisions of this Schedule or any regulations made thereunder have otherwise not been duly complied with, the Secretary of State may apply by petition to the Court of Session to have the authority ordained to make such payment and to comply in such other manner with the provisions of this Schedule or such regulations as may be necessary in the circumstances, and the Court are hereby authorised to do therein as shall appear to be just.
- 19 Without prejudice to paragraph 18 above, the Secretary of State may from time to time as he thinks fit cause an investigation to be made into the administration of the loans fund of the authority, who shall bear the expenses of such investigation.
- 20 (1) If at any time any sums due by way of principal or interest on any security created by a local authority remain unpaid for a period of two months after demand in writing, the person entitled thereto, being the holder of such a security to the amount of not less than £1,000, or the persons entitled thereto, being the holders of such securities amounting together to not less than £2,000, may present a petition to the Court of Session for the appointment of a judicial factor, and the Court may, if they think fit, appoint a judicial factor.
- (2) Subject to the directions of the Court, the judicial factor shall have all the powers of the local authority [F103 of levying rates, [F104 the council tax and the council water charge]], making requisitions on [F105 other local authorities] and collecting and recovering sums due to the authority in respect of rates or requisitions and any other

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sums whatsoever due to the authority and such other powers and duties as the Court think fit, and shall apply all money received by him, after payment of expenses including a proper remuneration for his trouble, as the Court direct for the purposes of this Schedule.

- (3) The judicial factor shall have such access to and use of the books and documents of the local authority as he may require.
- (4) The powers conferred by this paragraph shall be in addition to and not in derogation of any other powers competent to the holder of a security for enforcing payment of the sums due under the security.

**Textual Amendments**

**F103** Words substituted by [Abolition of Domestic Rates Etc. \(Scotland\) Act 1987 \(c. 47, SIF 81:2, 103:2\), s. 6, Sch. 1 Pt. III para. 35\(a\)](#)

**F104** Words in Sch. 3 para. 20(2) substituted (1.4.1993) by [Local Government Finance Act 1992 \(c. 14\), s. 117\(1\), Sch. 13 para. 44\(b\)](#) (with s. 118(1)(2)(4)); S.I. 1993/575, [art. 2\(c\)](#).

**F105** Words substituted by [Abolition of Domestic Rates Etc. \(Scotland\) Act 1987 \(c. 47, SIF 81:2, 103:2\), s. 6, Sch. 1 Pt. III para. 35\(b\)](#)

- 21 (1) Notwithstanding anything in this Schedule, the Secretary of State may by regulations make such provision as appears to him necessary or expedient with respect to the operation of the loans fund of a local authority and such regulations may apply generally or in the case of any particular authority or class of authority.
- (2) A statutory instrument containing regulations under this paragraph shall be subject to annulment in pursuance of a resolution of either House of Parliament.

*Capital, Renewal and Repair Funds*

- 22 (1) Subject to the provisions of this Schedule, a local authority may establish [<sup>F106</sup>any] of the following funds—
  - (a) a capital fund, to be used for defraying any expenditure of the authority to which capital is properly applicable, or in providing money for repayment of the principal of loans (but not any payment of interest on loans);
  - (b) a renewal and repair fund, to be used for the purpose of defraying expenditure to be incurred from time to time in repairing, maintaining, replacing and renewing any buildings, works, plant, equipment or articles belonging to the authority.
  - [<sup>F107</sup>(ba) an insurance fund, to be used for the following purposes, namely—
    - (i) where the authority could have insured against a risk but have not done so, defraying any loss or damage suffered, or expenses incurred, by the authority as a consequence of that risk;
    - (ii) paying premiums on a policy of insurance against a risk.]
    - (c) .....
- (2) A fund established by a local authority under this paragraph shall not be used to meet, directly or indirectly, any expenditure incurred by the authority for the purposes of [<sup>F108</sup>(a) their functions under any enactment (within the meaning of section 109(1) of the <sup>M34</sup>Water (Scotland) Act 1980) in relation to water supply in their area; or

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- (b) under the <sup>M35</sup>Sewerage (Scotland) Act 1968; or  
(c)]

a statutory undertaking of the authority, being a transport, district heating, harbour, dock, pier or ferry undertaking or a market or civic restaurant [<sup>F109</sup>; and if the renewal and repair fund [<sup>F110</sup> or the insurance fund] is used so to meet expenditure incurred by the authority in relation to any house, or other property, to which their housing revenue account relates, the amount in question shall, subject to paragraph 1(7) of Schedule 4 to the <sup>M36</sup>Housing (Financial Provisions) (Scotland) Act 1972, first to be carried to the credit of that account].

In this sub-paragraph, “pier” and “ferry” do not include a pier or ferry provided under section 2(2) of the <sup>M37</sup>Local Government (Development and Finance) (Scotland) Act 1964.

- (3) Notwithstanding anything in any enactment, pending the application of any such fund as aforesaid for the purposes authorised by this paragraph, the money in the fund shall (unless applied in any other manner authorised by any enactment) be advanced to the loans fund or invested in trustee securities.
- (4) The provisions of this paragraph shall be in addition to and not in substitution for any other enactment authorising a local authority to establish a fund for a purpose for which a fund may be established under this paragraph; and a local authority may amalgamate any fund established by them under any other enactment with any corresponding fund established by them under this paragraph.

#### Textual Amendments

**F106** Word substituted by Local Government Act 1988 (c. 9, SIF 81:1, 2), s. 32(1), **Sch. 6 para. 11(2)(a)**

**F107** Sch. 3 para. 22(1)(ba) inserted (4.1.1995) by 1994 c. 39, s. 180(1), **Sch. 13 para. 100(9)(f)(i)** (with s. 128(2)); S.I. 1994/2850, **art. 3(c)(ix)**

**F108** Schedule 3 para. 23(2)(a)(b) and subparagraph letter (c) inserted (6.3.1992) by Local Government Finance Act 1992 (c. 14), s. 117(1), **Sch. 13 para. 44(c)** (with s. 118(1)(2)(4)).

**F109** Words inserted by Housing (Scotland) Act 1986 (c. 65, SIF 61), **s. 17**

**F110** Words in Sch. 3 para. 22(2) inserted (4.1.1995) by 1994 c. 39, s. 180(1), **Sch. 13 para. 100(9)(f)(ii)** (with s. 128(2)); S.I. 1994/2850, **art. 3(c)(ix)**

#### Marginal Citations

**M34** 1980 c. 45.

**M35** 1968 c. 47.

**M36** 1972 c.46 (61).

**M37** 1964 c. 67.

- 23 (1) Subject to sub-paragraph (2) below, a local authority by whom a capital fund is established under paragraph 22 above may pay into that fund—
- (a) any sums derived from the sale of any property of the local authority, not being property held by them for any such purposes as are mentioned in paragraph 22(2) above; and
- (b) such sums as the local authority may from time to time by resolution direct; and shall pay into that fund a sum equal to the amount of any income arising from the fund.

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- (2) Except with the consent of the Secretary of State, money received from the disposal of any property to which the local authority's housing revenue account relates shall not be paid into any such capital fund.
- (3) All money applied from any such capital fund may, if the local authority think fit, be repaid from the account to which that money is advanced by such annual instalments (with or without interest) and within such period as the local authority may determine.
- 24 (1) A local authority by whom a renewal and repair fund [<sup>F111</sup>, or an insurance fund,] is established under paragraph 22 above may from time to time pay into that fund such sums as they may by resolution direct.
- (2) The purposes for which any such renewal and repair fund may be applied shall not include the defraying of expenditure of an undertaking of the local authority in respect of which the authority are authorised to provide a reserve fund.

#### Textual Amendments

**F111** Words in Sch. 3 para. 24(1) inserted (4.1.1995) by 1994 c. 39, s. 180(1), Sch. 13 para. 100(9)(g) (with s. 128(2)); S.I. 1994/2850, art. 3(e)(ix)

<sup>F112</sup>24A .....

#### Textual Amendments

**F112** Sch. 3 para. 24A repealed (1.4.1995) by 1994 c. 39, s. 180(2), Sch. 14 (with s. 128(2)); S.I. 1995/702, art. 3(e), Sch. 1

- 25 (1) Notwithstanding anything in any enactment, a local authority may use, for any purpose for which the authority has a statutory borrowing power, any money forming part of, but not for the time being required for the purposes of, any fund of theirs to which this paragraph applies; and where any such money is so used the following provisions of this paragraph shall have effect.
- (2) The money so used shall be repaid to the said fund as follows:—
- it shall be repaid as and when it is required for the purposes of that fund;
  - if not required to be repaid earlier under paragraph (a) above, it shall be repaid within the period within which a loan raised under the statutory borrowing power would be repayable, or at such time before the expiration of that period as the authority may resolve.
- (3) The statutory borrowing power shall be deemed to be exercised by the use of money under this paragraph as fully in all respects as if a loan of the same amount had been raised in exercise of the power.
- (4) This paragraph applies to any fund established for the repayment of debt, or as a reserve, or for the maintenance, renewal or repair of property, or for superannuation of staff, or for insurance, or otherwise for meeting future expenditure of a capital or non-recurring nature, or for any like purpose.
- (5) In this paragraph “statutory borrowing power” does not include the power to borrow by way of temporary loan or overdraft conferred by paragraph 3 above.

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- (6) The powers conferred by this paragraph are in addition to, and not in derogation of, the powers conferred by or under any other enactment.

*Miscellaneous*

26 A person lending money to a local authority shall not be bound to inquire whether the borrowing of the money is legal or regular or whether the money raised was properly applied and shall not be prejudiced by any illegality or irregularity, or by the misapplication or non-application of any of that money.

27 ..... F113

**Textual Amendments**

**F113** Sch. 3 para. 27 repealed by Housing (Scotland) Act 1987 (c. 26, SIF 61), ss. 335, 339(2)(3), Sch. 23 para. 23(1)(a), Sch. 24

28 (1) Subject to paragraph 1(4) above and sub-paragraph (2) below, the provisions of this Schedule shall, subject to any necessary modifications, apply to a joint board having power to borrow money, a water development board or a river purification board, as they apply to a local authority.

(2) The Secretary of State may by regulations make such provisions as seem to him necessary or expedient with respect to the application of the provisions of this Schedule to the aforesaid boards, either generally or to any particular board or class of board.

(3) A statutory instrument containing regulations under this paragraph shall be subject to annulment in pursuance of a resolution of either House of Parliament.

29 Save as otherwise expressly provided, the provisions of this Schedule in their application to money borrowed before the commencement of this Act by a local authority under a local enactment shall be subject to the provisions of such local enactment so far as inconsistent with the provisions hereof.

30 Nothing in this Schedule shall apply to or affect the power of an islands or district council having a common good to borrow on the security of the common good or any loan secured thereon.

31 In this Schedule, unless the context otherwise requires—  
 “advance”, in relation to the loans fund and a borrowing account of a local authority, means the transfer of money by way of loan from the loans fund to the appropriate borrowing account in exercise of a statutory borrowing power;  
 “borrowing account”, in relation to a local authority, means an account of the authority relating to a purpose for which the authority have a statutory borrowing power;  
 [“<sup>F114</sup>council tax” shall be construed in accordance with the provisions of section 70(1) of the Local Government Finance Act 1992;

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“<sup>F114</sup>council water charge” shall be construed in accordance with the provisions of paragraph 6 to Schedule 11 to the Local Government Finance Act 1992;]

[<sup>F115</sup>“community charges” shall be construed in accordance with section 7 (creation and purpose of community charges) of the Abolition of Domestic Rates Etc. (Scotland) Act 1987;

“<sup>F115</sup>community water charges” shall be construed in accordance with paragraph 6 of Schedule 5 to the said Act of 1987;]

“fixed period”, in relation to any sum advanced to a borrowing account or to a relevant authority, means such period not exceeding 30 years from the date of the advance as the local authority determine or such other period as the Secretary of State may determine in any particular case or [<sup>F116</sup>, from time to time, for any class of cases or] for the purpose of any enactment;

“loans fund” means the loans fund established under this Schedule;

“mortgage” means a deed containing an assignation by way of security of the funds, rates and revenues of a local authority;

“relevant authority” means any authority to whom a local authority may make a loan under paragraph 10 or 11 above;

“security”, in relation to a local authority, means a mortgage, a 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) by or under any enactment, but does not include . . . <sup>F117</sup> a heritable security or other deed of security or document of debt affecting the common good of an islands area or district;

“statutory borrowing power” means any power to borrow money conferred on a local authority by or under any enactment, but does not include the power of an islands or district council to borrow for the purposes of the common good;

“trustee securities” means any security in which trustees are for the time being authorised by law to invest trust money.

#### Textual Amendments

- F114** Definitions in Sch. 3 para. 31 of "council tax" and "council watercharge" inserted (1.4.1993) by [Local Government Finance Act 1992 \(c. 14\)](#), s. 117(1), **Sch. 13 para. 44(d)** (with s. 118(1)(2)(4)); S.I. 1993/575, **art. 2(c)**.
- F115** Definitions in Sch. 3 para. 31 of "community charges" and "community watercharges" (which were inserted by [Abolition of Domestic Rates Etc. \(Scotland\) Act 1987 \(c. 47\)](#), s. 6, **Sch. 1 para. 36**) repealed (1.4.1993) by [Local Government Finance Act 1992 \(c. 14\)](#), s. 117(2), **Sch.14** (with s. 118(1)(2)(4)); S.I. 1993/575, **art. 2(d)**.
- F116** Words inserted by [Local Government \(Miscellaneous Provisions\) \(Scotland\) Act 1981 \(c. 23, SIF 81:2\)](#), **Sch. 3 para. 36(b)**
- F117** Words repealed by [Housing \(Scotland\) Act 1987 \(c. 26, SIF 61\)](#), ss. 335, 339(2)(3), Sch. 23 para. 23(1) (b), **Sch. 24**

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## SCHEDULE 4

Section 21.

### THE COMMISSIONER

#### *Disqualifications*

- 1 (1) A person shall be disqualified for being appointed as, or for being, the Commissioner if—
- (a) he is disqualified for being elected, or being a member of any of the authorities mentioned in section 23 of this Act; or
  - (b) he is a member of any of those authorities or is a member (by co-option) of a committee of any of those authorities; or
  - (c) he has been a member of any of those authorities or has been a member (by co-option) of a committee of any of those authorities within 5 years before the date from which the appointment would take effect.
- (2) The acts and proceedings of a person appointed as the Commissioner and acting in that office shall, notwithstanding his disqualification under this paragraph, be as valid and effectual as if he had been qualified.
- 2 The Commissioner, during his term of office and for 3 years thereafter, shall be disqualified for being appointed to any paid office by any of the authorities mentioned in section 23 of this Act.

#### *Remuneration, etc.*

- [<sup>F118</sup>3 (1) The designated body shall pay to, or in respect of—
- (a) the Commissioner, or any person holding an appointment under paragraph 4 of this Schedule, such amounts—
    - (i) by way of remuneration or allowances; or
    - (ii) towards the provision of pensions, allowances or gratuities;
  - (b) any person who has held the office of Commissioner, or an appointment under the said paragraph 4, such amounts by way of pensions, allowances or gratuities,
- as the Secretary of State may determine; but any such amount which the Secretary of State determines to be payable to, or in respect of, the Commissioner or any person who has held the office of Commissioner shall be subject to the approval of [<sup>F119</sup>the Treasury].]
- (2) If a person ceases to be the Commissioner and it appears to the Secretary of State that there are special circumstances which make it right that that person should receive compensation, the designated body shall pay to that person a sum of such amount as the Secretary of State may, with the consent of [<sup>F120</sup>the Treasury], determine.

#### **Textual Amendments**

**F118** Sch. 3 para. 3(1) substituted by [Local Government \(Scotland\) Act 1978 \(c. 4, SIF 81:2\)](#), s. 4

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**F119** Words substituted by virtue of S.I. 1981/1670, arts. 2(2), 3(5)

**F120** Words substituted by virtue of S.I. 1981/1670, arts. 2(1)(d), 3(5)

### *Staff and accommodation*

- 4 (1) The Commissioner may appoint a secretary and such other officers as he may consider to be required for the discharge of his functions, but the amount of remuneration payable to the secretary and such officers and the number of such officers to be appointed shall be subject to the approval of the designated body.
- (2) The designated body shall, after consultation with the Commissioner, make such arrangements as they may consider to be required for the provision of offices and other accommodation in connection with the discharge of the Commissioner's functions.
- (3) Any function of the Commissioner . . . <sup>F121</sup> may be performed by any of his officers who is authorised for the purpose by the Commissioner.

#### **Textual Amendments**

**F121** Words repealed by [Local Government Act 1988 \(c. 9, SIF 81:1, 2\)](#), ss. 29, 41, Sch. 3 para. 17, [Sch. 7 Pt. II](#)

### *Expenses of the Commissioner*

- 5 [<sup>F122</sup>Subject to section 29(2H) of this Act,] all reasonable expenses incurred by the Commissioner and his officers shall be defrayed by the designated body.

#### **Textual Amendments**

**F122** Words inserted by [Local Government and Housing Act 1989 \(c. 42, SIF 81:2\)](#), s. 194(1), [Sch. 11 para. 46](#)

### *Disqualification for membership of the House of Commons and the Northern Ireland Assembly*

- 6 In Part III of Schedule 1 to the House of Commons Disqualification Act 1975 and in Part III of Schedule 1 to the Northern Ireland Assembly Disqualification Act 1975 there shall (at the appropriate place in alphabetical order) be inserted the following entry:—

“The Commissioner for Local Administration in Scotland;”

#### **Modifications etc. (not altering text)**

**C50** The text of Sch. 4 para. 6 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.



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## SCHEDULE 5

Section 24.

### MATTERS NOT SUBJECT TO INVESTIGATION

- 1 The commencement or conduct of civil or criminal proceedings before any court of law.
- 2 Action taken by <sup>F123</sup>any police authority or any joint police committee constituted by an amalgamation scheme made or approved under the Police (Scotland) Act 1967] in connection with the investigation or prevention of crime.

#### Textual Amendments

**F123** Words substituted by [S.I. 1988/1306, art. 2](#)

- 3 (1) Action taken in matters relating to contractual or other commercial transactions of any authority to which Part II of this Act applies, including transactions falling within sub-paragraph (2) below but excluding transactions falling within sub-paragraph (3) below.  
(2) The transactions mentioned in sub-paragraph (1) above as included in the matters which, by virtue of that sub-paragraph, are not subject to investigation are all transactions of an authority to which Part II of this Act applies relating to the operation of public passenger transport, the carrying on of a dock or harbour undertaking, the provision of entertainment, or the provision and operation of industrial establishments and of markets.  
(3) The transactions mentioned in sub-paragraph (1) above as not included in those matters are—
  - (a) transactions for or relating to the acquisition or disposal of land; and
  - (b) all transactions (not being transactions falling within sub-paragraph (2) above) in the discharge of functions exercisable under any public general Act, other than those required for the procurement of the goods and services necessary to discharge those functions.
- 4 Action taken in respect of appointments or removals, pay, discipline, superannuation or other personnel matters.
- 5 Any action concerning—
  - (a) the giving of instruction, whether secular or religious, or
  - (b) conduct, curriculum, internal organisation, management or discipline,in any educational establishment under the management of an education authority.

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## SCHEDULE 6

Section 38(1)

### ADAPTATION AND AMENDMENT OF ENACTMENTS

#### PART I

##### GENERAL ADAPTATION OF ENACTMENTS

- 1 Any reference in any enactment to an entry in the roll made by the Assessor of Public Undertakings (Scotland), however expressed, shall be construed as a reference to a direction given by the Assessor under section 5 of this Act.
- 2 Any reference in the Valuation Acts or in any enactment having effect by virtue of those Acts to “year”, however expressed, shall be construed as respects the year 1975-76 as a reference to a period commencing on 16th May 1975 and ending on 31st March 1976 and as respects any later year as a period of twelve months ending with 31st March.

#### PART II

##### MINOR AND CONSEQUENTIAL AMENDMENTS

**Modifications etc. (not altering text)**

- C51** The text of Sch. 6 Pt. II is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and, except as specified, does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

*The Lands Valuation (Scotland) Act 1854 (c. 91)*

- 1 In section 7 (assessor may call for written statement of rent)—
  - (a) for the words from “within the county or burgh” to “such county or burgh” there shall be substituted the words “ within his area for a return containing such particulars as may be reasonably required for the purpose of enabling him to value the lands and heritages ” ;
  - (b) for the words “of such yearly rent or other particulars as aforesaid” there shall be substituted the words “ in such return ”.
- 2 In section 24 (notice of valuation)—
  - (a) the words “in each year” shall cease to have effect ;
  - (b) for the words “every entry in his valuation roll” there shall be substituted the words “ the direction given to him under section 5 of the Local Government (Scotland) Act 1975 ” ;
  - (c) after the words “such valuation” there shall be inserted in words “ as contained in the direction ”.

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- 3 In section 25 (appeal by parish, county or burgh interested in the valuation of any company), for the words from the beginning to “contained to” there shall be substituted the words “ Any local authority having an interest in any entry in the valuation roll made in consequence of a direction by the Assessor of Public Undertakings (Scotland) under section 5 of the Local Government Act 1975 may”.
- 4 For section 35 (valuation rolls preserved in the General Register House), there shall be substituted the following section—

**“35 Preservation of valuation rolls by the Keeper of Records.**

The assessor for each valuation area shall as soon as is reasonably practicable after a valuation roll has ceased to be in force transmit the roll to the Keeper of the Records of Scotland for preservation by him.”.

- 5 In section 42 (interpretation), in the definition of “machinery fixed or attached” (set out in section 1 of the <sup>M38</sup>Lands Valuation (Scotland) Amendment Act 1902) the words “save as herein provided” shall cease to have effect and at the end there shall be added the words “ nor, after the year 1977-78, include any electric motor used in any industrial or trade process, whether in a building or not ”.

**Marginal Citations**

**M38** 1902 c. 25.

*The Sporting Lands Rating (Scotland) Act 1886 (c. 15)*

F124<sup>6</sup> .....

**Textual Amendments**

**F124** Sch. 6 Pt. II para. 6 repealed (1.4.1995) by 1994 c. 39, s. 180(2), **Sch. 14** (with s. 128(2)); S.I. 1994/3150, art. 4(d), **Sch. 2**

*The Valuation of Lands (Scotland) Acts Amendment Act 1894 (c. 36)*

- 7 In section 7 (extension of meaning of word company), for the words “the valuation roll to be made up” there shall be substituted the words “ any valuation made ”.

*The Rating and Valuation (Apportionment) Act 1928 (c. 44)*

- 8 In section 9(13) (application to Scotland), for the words from “(including” to “so amended” there shall be substituted the words “ made up under the Valuation Acts as defined in section 37 of the Local Government (Scotland) Act 1975 ”.

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*The Railways (Valuation for Rating) Act 1930 (c. 24)*

- 9 In section 22(7) (amendment of other Acts), for the words “made up by the Assessor” there shall be substituted the words “in consequence of a direction given by the Assessor under section 5 of the Local Government (Scotland) Act 1975”.

10 ..... F125

**Textual Amendments**

**F125** Sch. 6 Pt. II paras. 10, 15, 16, 39 and 56(b) repealed by [Water \(Scotland\) Act 1980 \(c. 45, SIF 130\)](#), [Sch. 11](#)

*The Civic Restaurants Act 1947 (c. 22)*

- 11 In section 3 (financial provisions), in subsection (1) the words from “and form of the account” to the end, and in subsection (2) the words from “and if the account” to the end shall cease to have effect.

*The Local Government (Scotland) Act 1947 (c. 43)*

- 12 In section 235 (rating authority may require power to furnish statement of lets)—
- (a) in subsection (1) the words “and of the rents for which the same are let” shall cease to have effect ;
  - (b) in subsection (2), for the words “ten pounds” and “twenty pounds” there shall be substituted respectively the words “ £50 ” and “ £100 ”, and the words “or the rent of any of the said lands and heritages” shall cease to have effect.

F126<sup>13</sup> .....

**Textual Amendments**

**F126** Sch. 6 Pt. II para. 6 repealed (1.4.1995) by [1994 c. 39, s. 180\(2\)](#), [Sch. 14](#) (with [s. 128\(2\)](#)); [S.I. 1994/3150, art. 4\(d\)](#), [Sch. 2](#)

*The Local Government Act 1948 (c. 26)*

- 14 In section 100(3) (provisions as to making and division of payments for benefit of local authorities), for the words from “according to their” to the end there shall be substituted the words “ among local authorities or any classess thereof in accordance with regulations made by him under section 11 of the Local Government (Scotland) Act 1973. ”.

15—16. .... F127

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### Textual Amendments

**F127** Sch. 6 Pt. II paras. 10, 15, 16, 39 and 56(b) repealed by [Water \(Scotland\) Act 1980 \(c. 45, SIF 130\)](#), [Sch. 11](#)

### *The Rating and Valuation (Scotland) Act 1952 (c. 47)*

- 17 In section 3 (notice to rating authorities of Assessor’s proposed valuation)—
- (a) in subsection (1), the words “in each year” shall cease to have effect, and for the words “entry proposed to be made by such Assessor in his valuation roll” there shall be substituted the words “ direction proposed to be given by such Assessor under section 5 of the Local Government (Scotland) Act 1975 ” ;
  - (b) in subsection (2), for the words “entry” wherever it occurs and for the words “his valuation roll” there shall be substituted respectively the words “ direction ” and “ such direction ”.
- 18 In section 4 (Assessor of Public Undertakings (Scotland) to amend his valuation roll to give effect to appeal), the word “roll” shall cease to have effect, and at the end there shall be added the words “ and shall give a further direction under section 5 of the Local Government (Scotland) Act 1975 ”.

### *The Pests Act 1954 (c. 68)*

- 19 For section 6 (charges for inspection of ships), there shall be substituted the following section—

#### **“6 Charges for inspection of ships.**

A local authority within the meaning of the Public Health (Scotland) Act 1945 or a port local authority within the meaning of section 172 of the Public Health (Scotland) Act 1897 may impose such charges as appear to the authority to be appropriate for any inspection of a vessel made by an officer of the authority for the purposes of any Order in Council under section 23 of the Prevention of Damage by Pests Act 1949.”.

### *The Valuation and Rating (Scotland) Act 1956 (c. 60)*

- 20 In section 13 (time for giving notices etc.)—
- (a) at the end of subsection (1) there shall be added the words “ ; and an order under this section may relate to local authorities generally or to any class of local authority ” ;
  - (b) subsection (2) shall cease to have effect.
- 21 In section 43(1) (interpretation), in the definition of “the Valuation Acts” at the end there shall be added the words “ and the Local Government (Scotland) Act 1975 ”.

22 ..... **F128**

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### Textual Amendments

**F128** Sch. 6 Pt. II para. 22 repealed by [S.I. 1978/1176](#), [Sch.](#)

#### *The Local Government (Financial Provisions) (Scotland) Act 1963 (c. 12)*

- 23 In section 7(4) (apportionment), for the words “the fifteenth day of March” there shall be substituted the words “ the date prescribed by order under section 13 of the Act of 1956 ”.
- 24 In section 9 (meaning of product of a rate of one penny in the pound and standard penny rate product)—
- (a) in subsection (3) for the words from “amount” to the end there shall be substituted the words “ product of the weighted population of the district or islands area and the national standard amount per head for that year. ” ;
  - (b) subsection (4) shall cease to have effect ;
  - (c) in subsection (5) after the word “area” there shall be inserted the words “ and the national standard amount per head ”.
- 25 In section 15 (proceedings before valuation appeal committees)—
- (a) in subsection (2) for the words “5 of the Act of 1956” there shall be substituted the words “ 4 of the Local Government (Scotland) Act 1975 and the procedure in appeals and complaints to the committees ” ;
  - (b) for subsection (3) there shall be substituted the following subsection—
 

“(3) Regulations under this section may provide for the amendment or repeal of any enactment which is inconsistent with or superseded by any provision contained in the regulations.”.
- 26 In section 22 (miscellaneous amendments of Act of 1956 repating to valuation and rating), in paragraph (d) for the words from “in years” to the end there shall be substituted the words “ as he may consider appropriate ”.
- 27 In section 26(1) (interpretation), in the definition of “year of revaluation” for the words “9 of Act of 1956” there shall be substituted the words “ 37 of the Local Government (Scotland) Act 1975 ”.

#### *The Public Works Loans Act 1964 (c. 9)*

- 28 In section 6(1) (re-borrowing powers of public authorities), for the words “section 277(1) of the Local Government (Scotland) Act 1947” there shall be substituted the words “ Scheduel 3 to the Local Government (Scotland) Act 1975 ”.

#### *The Teaching Council (Scotland) Act 1965 (c. 19)*

- 29 In Schedule 1 (constitution of the Council)—
- (a) in paragraph 1(1)(b) for items (i) and (ii) there shall be substituted the following item—
 

“(i) four by the Convention of Scottish Local Authorities ;” ;

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(b) in paragraph 4(1) for the words “paragraph 5(3)” there shall be substituted the words “ paragraphs 5(3) and 5A ” ;

(c) after paragraph 5 there shall be inserted the following—

“5A On 16th May 1975 each person holding office as a member of the Council who has been appointed by the Association of County Councils in Scotland or by the Scottish Counties of Cities Association shall go out of office ; and any person, appointed as a member of the Council by the Convention of Scottish Local Authorities by virtue of paragraph 1(1)(b)(i) of this Schedule in respect of the period of office of members of the Council current at the date of the commencement of paragraph 29 of Schedule 6 to the Local Government (Scotland) Act 1975, shall hold office until 31st January 1979 inclusive.”.

*The Public Works Loans Act 1965 (c. 63)*

30 In section 2 (new form of local loan and automatic charge for securing it)—

“(b) in relation to Scotland, any local authority within the meaning of the Local Government (Scotland) Act 1973 and any joint board or joint committee of any such local authority” ;

(b) in subsection (3), for the words “Part XII of the said Act of 1947” there shall be substituted the words “ Schedule 3 to the Local Government (Scotland) Act 1975 ” ;

(c) in subsection (5), for the words “section 261 of the Local Government (Scotland) Act 1947” there shall be substituted the words “ paragraph 8 of Schedule 3 to the said Act of 1975 ”.

*The Housing (Scotland) Act 1966 (c. 49)*

31 In Schedule 7 (provisions as to local bonds), in paragraph 6 for the words “Part XII of the Local Government (Scotland) Act 1947” there shall be substituted the words “ Schedule 3 to the Local Government (Scotland) Act 1975 ”.

*The Local Government (Scotland) Act 1966 (c. 51)*

32 In section 15 (valuation according to tone of roll), in subsection (1), for the words “for a year other than a year of revaluation” there is substituted the words “ at any time the valuation roll is in force ”.

33 In section 24 (liability to be rated in respect of certain unoccupied property)—

(a) in subsections (1), (4) and (5) for the words “three months” there shall be substituted the words “ six months ”. ;

(b) subsections (2) and (3) shall cease to have effect.

F129<sup>34</sup> .....

**Textual Amendments**

**F129** Sch. 6 Pt. II para. 34 repealed (1.4.1995) by 1994 c. 39, s. 180(2), Sch. 14 (with s. 128(2)); S.I. 1994/3150, art. 4(d), Sch. 2

35 In section 27 (notification of unoccupied dwelling-houses)—

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- (a) in subsection (2), the words “subject to the next following subsection” and the words from “and no reduction” to the end shall cease to have effect ;
- (b) subsection (3) shall cease to have effect ;
- (c) in subsection (4) for the word “rating” there shall be substituted the word “ local ”.
- 36 In section 46(1) (general interpretation), in the definition of “year of revaluation” for the words “9 of the Valuation and Rating (Scotland) Act 1956” there shall be substituted the words “ 37 of the Local Government (Scotland) Act 1975 ”.
- 37 In Schedule 2 (valuation of water undertakings)—
- (a) in paragraph 1, the words “and shall enter such value in the valuation roll” shall cease to have effect ;
- (b) in paragraph 2, for the words “entered in the valuation roll referred to in” there shall be substituted the words “ determined by the Assessor in accordance with ” ;
- (c) in paragraph 4, for the words “31st December” there shall be substituted the words “ such date as may be prescribed ” ;
- (d) in paragraph 16, after the words “Assessor shall” there shall be inserted the words “ give a direction under section 5 of the Local Government (Scotland) Act 1975 to the local assessor to ” ;
- (e) in paragraph 17, after the words “and shall” there shall be inserted the words “ give a direction under section 5 of the Local Government (Scotland) Act 1975 to the local assessor to ” ;
- (f) in paragraph 19, for the words “31st December” there shall be substituted “ such date as may be prescribed ” ;
- (g) paragraph 23 and, in paragraph 27, the definition of “valuation roll” shall cease to have effect.
- 38 In Schedule 3 (rating of unoccupied property), in paragraph 3(6) for the words “349 of the Local Government (Scotland) Act 1947” there shall be substituted the words “ 192 of the Local Government (Scotland) Act 1973 ”.

39 ..... F130

#### Textual Amendments

**F130** Sch. 6 Pt. II paras. 10, 15, 16, 39 and 56(b) repealed by [Water \(Scotland\) Act 1980 \(c. 45, SIF 130\)](#), [Sch. 11](#)

#### *The National Loans Act 1968 (c. 13)*

- 40 In paragraph 1 of Schedule 4 (local loans), for the words “379(1) of the Local Government (Scotland) Act 1947” there shall be substituted the words “ 235(1) of the Local Government (Scotland) Act 1973 ”.

#### *The Transport Act 1968 (c. 73)*

- 41 In section 12(7)(b) (borrowing powers of Executive), for the words “section 278 of the Local Government (Scotland) Act 1947” there shall be substituted the words “ paragraph 26 of Schedule 3 to the Local Government (Scotland) Act 1975 ”.



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42 In section 19(1) (transfer of control of bus services to Executive), for the words from “Minister has received” to “a copy of” there shall be substituted the words “Authority for a designated area have caused to be published”.

43 ..... F131

**Textual Amendments**

F131 Sch. 6 Pt. II para. 43 repealed by [S.I. 1978/1173](#), [Sch.](#)

*The Local Government (Footpaths and Open Spaces) (Scotland) Act 1970 (c. 28)*

44 In section 5 (interpretation), in the definition of “local authority”, for the words “a town council or a county” there shall be substituted the words “, in sections 1 and 2, a regional or islands council, and in section 3, a regional, islands or district”.

*The Breeding of Dogs Act 1973 (c. 60)*

45 In section 1 (licensing)—  
(a) in subsection (2), for the words “Secretary of State may by order” there shall be substituted the words “ local authority may ” ;  
(b) subsection (3) shall cease to have effect.

*The Local Government (Scotland) Act 1973 (c. 65)*

[<sup>F132</sup>46 In section 49 (application of sections 45 to 47 to certain bodies)—  
(a) subsection (1)(b) shall cease to have effect ;  
(b) after subsection (1) there shall be inserted the following subsection:—  
“(1A) Sections 45 to 47 to this Act shall apply to any local valuation panel or valuation appeal committee but as if payments referred to in those sections qwere made by the valuation authority.”.]

**Textual Amendments**

F132 Sch. 6 Pt. II para. 46 repealed (*prosp.*) by [Local Government and Housing Act 1989 \(c. 42, SIF 81:1\)](#), [ss. 194\(4\), 195\(2\)](#), [Sch. 12 Pt. II](#)

47 In section 94 (capital expenses), after subsection (1) there shall be inserted the following subsection—

“(1A) The giving of approval by a local authoritu as a Passenger Transport Authority to any proposal for expenditure referred to in section 15(1)(c) of the Transport Act 1968 shall be deemed for the purposes of this section to be an incurrinf of liability by the authority to meet capital expenses.”.

48 In section 97(6) (Commission for Local Authority Accounts in Scotland), after the words “includes”, “Audit,” and “accountants, and” there shall be inserted respectively the words “ (a) ”, “ (b) ” and “ (c) ”.

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- 49 In section 113 (persons eligible for rate rebates)—
- (a) for paragraph (b) of subsection (1) there shall be substituted the following paragraph—
    - “(b) a person who is the occupier of lands and heritages which are not a dwelling-house, but who resides or is usually resident in a part of the lands and heritages which is used for the purposes of a private dwelling and has at the relevant date a rateable value which does not exceed any limit prescribed ;” ;
  - (b) subsection (3) shall cease to have effect ;
  - (c) in subsection (4) for the word “paragraph” there shall be substituted the words “ paragraphs (b) and ” and at the end there shall be added the words “ ; but indetermining any such question the sheriff shall have regard to any apportionment shown in the valuation roll ”.
- 50 In section 125 (school and college councils), after subsection (3) there shall be inserted the following subsections—
- “(3A) Notwithstanding any rule of law, a person in minority shall be eligible to be appointed as a member of a scholl or college council.
- (3B) Without prejudice to the entitlement of a member of a scholl or college council who is also a member of a body to which sections 45 and 46 of this Act apply to receive allowances under those sections, an eduction authority may pay to any mamber of such a council—
- (a) in respect of his attendance at a meeting of the council, or
  - (b) in rspect of the doing by him of anything approved by the authority, or anything of a class so approved, for the purpose of, or inconnection with, the discharge of functions of the council,
- such allowances, in the nature of those payable under those section, other than subsection (1) of the said section 45, as they think fit, being payments of such reasonable amounts as they may determine in any particular case or class of case and not exceeding the amounts prescribed under subsection (4) of the said section 45 and specified under the said section 46 for the corresponding allowances under those sections.”.
- 51 In section 183(1) (directions relating to specialist advice), for paragraphs (b) and (c) there shall be substituted the following paragraph—
- “(b) under sections 262 and 262A of that Act (designation of, and control of demolition in, conservation areas)”.
- 52 In section 194 (execution of deeds by local authority and use of seal), in subsection (1), for the words “this Act” there shall be substituted the words “ any enactment ”.
- 53 In subsection 202 (procedures, etc., for byelaws)—
- (a) in subsection (1), at the beginning there shall be inserted the words “ Subject to subsection (1A) below ” ;
  - (b) after subsection (1) there shall be inserted the following subsection—
    - “(1A) This section shall not apply to byelaws made under section 60 or 61 of the Water (Scotland) Act 1946 or section 63(7) of the Countryside (Scotland) Act 1967.”.

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- 54 In Schedule 7 (meetings and proceedings of local authorities)—
- (a) in paragraph 2(4) after the words “a council” there shall be inserted the words “ and any other business brought before that meeting as a matter of urgency in accordance with the council’s standing orders ” ;
  - (b) in paragraph 5(1) after the word “Act” there shall be inserted the words “ and to an yprovisions of standing orders relating to the suspension of such orders ” ;
  - (c) in paragraph 5(2) after the word “appointment” there shall be inserted the words “ of a member of the council ”.
- 55 In Schedule 14 (amendment of enactments relating to roads), paragraphs 55 and 56 shall cease to have effect.
- 56 In Schedule 17 (amendment of enactments relating to water)—
- (a) for paragraph 1 there shall be substituted the following paragraph—
    - “1 (1) Notwithstanding any other provision of this Act or an yorder made thereunder, any reference in any enactment, order, scheme, regulations, award or byelaws passed or made before the coming into force of this Act—
      - (a) in unspecified terms to a regional water board or the region of such a board (or any expression construed as such a reference by virtue of paragraph 2 of Schedule 2 to the Water (Scotland) Act 1967) or to a constituent board shall be construed respectively as a reference to a water authority or to the limits of supply of such an authority or to a constituent water authority ;
      - (b) to a aprticular regional water board or the region of such a board (or any expression construed as aforesaid) shall be construed respectively as a reference to the water authority responsible for the water undertaking to which the enactment relates or to the limits of supply of such an authority.
    - (2) If there is any doubt as to the identity of the water authority referred to in sub-paragraph (1)(b) above, that authority shall be taken to be such authority as may be specified in a direction given by the Secretary of State.” ;
  - (b) ..... F133

**Textual Amendments**

**F133** Sch. 6 Pt. II paras. 10, 15, 16, 39 and 56(b) repealed by [Water \(Scotland\) Act 1980 \(c. 45, SIF 130\)](#), [Sch. 11](#)

- 57 In Schedule 23 (amendment of enactments relating to planning), in paragraph 2(b) for the words from “a general” to the end there shall be substituted the words “ an islands or district council ”.
- 58 In Schedule 29 (repeals), the entry relating to the Acquisition of Land (Authorisation Procedure) (Scotland) Act 1947 shall cease to have effect and paragraph 9 of Schedule 1 to that Act is hereby revived, and incolumn 3 of the entry relating to the Local Government (Scotland) Act 1966 for the words “30,

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subsections (3) and (4). Sections 31 and” there shall be substituted the words “ 30(4) the words from “section 149” to “Act)”. Section ”.

*The Housing (Scotland) Act 1974 (c. 45)*

- 59 In section 3 (conditions for approval of applications for improvement grant), in subsection (2)(c)(ii), for the words “last authenticated prior to” there shall be substituted the words “ inforce on ”.

*The House of Commons Disqualifications Act 1975 (c. 24)*

- 60 In Part III of Schedule 1, in the entry relating to local government officers the words from “County clerk or” to the end of the entry shall cease to have effect.
- 61 In Part IV of Schedule 1, in the entry relating to Her Majesty’s Lieutenant for a county in Great Britain for the words “Great Britain” there shall be substituted the words “ England and Wales ”, and after that entry there shall be inserted the following entries—

“Her Majesty’s lord-lieutenant or lieutenant for a region in Scotland.	Any constituency comprising the whole or part of such part of the region as may be determined by Order in Council made by Her Majesty in which the lord-lieutenant holds office or in which the lord-lieutenant or lieutenant discharges his functions.
Her Majesty’s lord-lieutenant or lieutenant for an islands area in Scotland.	Any constituency comprising the whole or part of the islands area for which the lord-lieutenant or lieutenant is appointed or for which the lord-lieutenant holds office.
Her Majesty’s lord-lieutenant or lieutenant for the district or city of Aberdeen, Dundee, Edinburgh or Glasgow.	Any constituency comprising the whole or part of the district in which the lord-lieutenant holds office or for which the lieutenant is appointed.”

*The Northern Ireland Assembly Disqualification Act 1975 (c. 25)*

- 62 In Part III of Schedule 1, in the entry relating to local government officers the words from “County clerk or” to the end of the entry shall cease to have effect.

SCHEDULE 7

Section 38(2).

REPEALS

**Modifications etc. (not altering text)**

- C52** The text of Sch. 7 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

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Chapter	Short title	Extent of Repeal
17 & 18 Vict. c. 91.	The Lands Valuation (Scotland) Act 1854.	Sections 1, 5, 9, 11, 12, 17, 18 and 23.  In section 24, the words “in each year”.  Section 27.  In section 42, in the definition of “machinery fixed or attached” (set out in section 1 of the Lands Valuation (Scotland) Amendment Act 1902), the words “save as herein provided”.
48 & 49 Vict. c. 16.	The Registration Amendment (Scotland) Act 1885.	The whole Act.
57 & 58 Vict. c. 36.	The Valuation of Lands (Scotland) Acts Amendment Act 1894.	Sections 2, 3, 5 and 6.
16 & 17 Geo. 5. c. 47.	The Rating (Scotland) Act 1926.	In section 29, the definition of “valuation roll”.
8 & 9 Geo. 6. c. 18.	The Local Authorities Loans Act 1945.	Section 8.
10 & 11 Geo. 6. c. 22.	The Civic Restaurants Act 1947.	In section 3, in subsection (1) the words from “and the form of the account” to the end, and in subsection (2) the words from “and if the account” to the end.
10 & 11 Geo. 6. c. 43.	The Local Government (Scotland) Act 1947.	Sections 221, 223, 228, 229, 231, 232 and 234.  In section 235, in subsection (1), the words “and of the rents for which the same are let” and in subsection (2), the words “or the rent for any of the said lands and heritages”.  Part XII.  Schedules 6, 7 and 8.
11 & 12 Geo. 6. c. 26.	The Local Government Act 1948.	In section 124, in subsection (2), the word “and” at the end of paragraph (a) and

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		paragraph (b), and subsection (3).
14 & 15 Geo. 6. c. 66.	The Rivers (Prevention of Pollution) (Scotland) Act 1951.	Section 7.
15 & 16 Geo. 6 & 1 Eliz. 2. c. 47.	The Rating and Valuation (Scotland) Act 1952.	In section 3(1), the words “in each year”.
3 & 4 Eliz. 2. c. 13.	The Rural Water Supplies and Sewerage Act 1955.	Section 1(3).
4 & 5 Eliz. 2. c. 60.	The Valuation and Rating (Scotland) Act 1956.	Sections 5, 9, 10 and 11.  Section 13(2).  Section 15 and 19.  Schedule 2.
10 & 11 Eliz. 2. c. 9.	The Local Government (Financial Provisions etc.) (Scotland) Act 1962.	In section 4(9) the words from “or by any” to the end.  Section 6. Section 7. Section 9. In Schedule 2, paragraph 4.
1963 c. 12.	The Local Government (Financial Provisions) (Scotland) Act 1963.	Section 3.  Section 9(4). Sections 13 and 21. In section 22, paragraphs (a), (b) and (e).
1964 c. 67.	The Local Government (Development and Finance) (Scotland) Act 1964.	Sections 8 to 12.  The Schedule.
1965 c. 63.	The Public Works Loans Act 1965.	Section 2(2).  In the Schedule, paragraph 10.
1966 c. 9.	The Rating Act 1966.	Sections 2, 3 and 4.
1966 c. 51.	The Local Government (Scotland) Act 1966.	In section 6, subsections (3) and (4).  In section 13, paragraphs (a) and (c).

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		Section 14(2).
		In section 24, subsections (2) and (3).
		Section 25(2).
		In section 27, in subsection (2), the words “subject to the next following subsection” and the words “and nor reduction” to the end, and subsection (3).
		Section 28(3)(a).
		In section 46(1), in paragraph 1, the words “and shall enter such value in the valuation roll”, paragraph 23, and in paragraph 27, the definition of “valuation roll”.
1967 c. 76.	The Road Traffic Regulations Act 1967.	In sections 72(6)(b) and 84B(8)(b) the words “for the purposes of advances under section 8 of the Development and Road Improvement Funds Act 1909”.
1967 c. 78.	The Water (Scotland) Act 1967.	Sections 10 and 17.
1968 c. 13.	The National Loans Act 1968.	In section 6(1), the entry relating to section 1(3)(b) of the Rural Water Supplies and Sewerage Act 1955.
1968 c. 73.	The Transport Act 1968.	In section 15(4), the words from “to the provisions” to the end.
		Section 138(6).
1970 c. 4.	The Valuation for Rating (Scotland) Act 1970.	In section 2(1), the definition of “valuation roll”.
1972 c. 46.	The Housing (Financial Provisions) (Scotland) Act 1972.	In Schedule 9, paragraphs 2, 3 and 14.
1973 c. 60.	The Breeding of Dogs Act 1973.	Section 1(3).
1973 c. 65.	The Local Government (Scotland) Act 1973.	Section 49(1)(b) and (f).
		Section 113(3).
		In section 210(1) the words “or under any other

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		enactment” where they first occur.
		In Schedule 9, paragraphs 3, 4, 5, 8, 13 to 15, 45 and 46, in paragraph 54(b) the words from “for the words “burgh or landward area”” to the end, and paragraph 57.
		In Schedule 14, paragraphs 55 and 56 and the entry relating to the Local Government (Footpaths and Open Spaces) (Scotland) 1970.
		In Schedule 17, paragraphs 25, 36 and 40.
		In Schedule 29, the entries relating to the Acquisition of Land (Authorisation Procedure) (Scotland) Act 1947 and to sections 10 and 17 of the Water (Scotland) Act 1967.
1975 c. 24.	The House of Commons Disqualification Act 1975.	In Part III of Schedule 1, in the entry relating to local government officers the words from “County clerk or” to the end of the entry.
1975 c. 25.	The Northern Ireland Assembly Disqualification Act 1975.	In Part III of Schedule 1, in the entry relating to local government officers the words from “County clerk or” to the end of the entry.

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