



Local Government (Scotland) Act 1975

1975 CHAPTER 30

PART II

LOCAL ADMINISTRATION

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 [^{F1}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.
- [^{F2}(3A) Subsections (2) and (3) above do not apply in relation to the Scottish Special Housing Association ^{F3} . . .]
- (4) A complaint shall not be entertained unless it was made to [^{F4}the Commissioner or] to a member of any authority concerned [^{F5}or, in the case of the Scottish Special Housing Association ^{F6} . . . , to the Commissioner] within twelve months from the day on which

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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 [^{F7}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;
 - (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.
- [^{F8}(7A) Where the complaint relates to a National Park authority, the reference in subsection (7) above to the area of the authority is a reference to the National Park.]
- (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 [^{F9}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

F1 Words inserted by [Local Government Act 1988 \(c. 9, SIF 81:1, 2\)](#), s. 29, [Sch. 3 para. 13\(1\)\(a\)](#)

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- F2** S. 24(3A) inserted by Law Reform (Miscellaneous Provisions) (Scotland) Act 1985 (c. 73, SIF 57), **ss. 55(2)(a), 60(3)(d)**
- F3** Words in s. 24(3A) repealed (1.4.1998) by 1997 c. 35, ss. 8(3), 10, **Sch. 3**; S.I. 1998/252, **art. 2**
- F4** Words inserted by Local Government Act 1988 (c. 9, SIF 81:2), s. 29, **Sch. 3 para. 13(1)(b)(2)**
- F5** Words inserted by Law Reform (Miscellaneous Provisions) (Scotland) Act 1985 (c. 73, SIF 57), **ss. 55(2)(b), 60(3)(d)**
- F6** Words in s. 24(4) repealed (1.4.1998) by 1997 c. 35, ss. 8(3), 10, **Sch. 3**; S.I. 1998/252, **art. 2**
- F7** Words substituted by Local Government Act 1988 (c. 9, SIF 81:2), s. 29, **Sch. 3 para. 13(1)(b)(2)**
- F8** S. 24(7A) inserted (8.9.2000) by 2000 asp 10, s. 36, **Sch. 5 para. 5(3)** (with s. 32); S.S.I. 2000/312, **art. 2**
- F9** Words substituted by Local Government Act 1988 (c. 9, SIF 81:2), s. 29, **Sch. 3 para. 13(1)(2)(c)**

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