



# Local Government and Planning (Scotland) Act 1982

## 1982 CHAPTER 43

### PART I

#### VALUATION AND RATING ETC

#### **1 Proposals for reductions in local authorities' rates**

In section 5 of the Local Government (Scotland) Act 1966 (which among other things provides that an element of rate support grant payable to a local authority may be reduced where the Secretary of State is satisfied that the total estimated expenses of the authority are excessive and unreasonable)—

- (a) in subsection (1)—
  - (i) for the word "If", where it occurs for the first time, there shall be substituted the words " Subject to subsections (1A)(b) and (3) below, if "; and
  - (ii) the words " ; and if the report is approved by a resolution of the Commons House of Parliament the Secretary of State may reduce the element of the grant accordingly " shall cease to have effect;
- (b) at the end of subsection (1A) there shall be added the words " ; and different such categories may be left out of account according to whether the proposed reduction under this section is of a rate or of the amount of an element of rate support grant. "; and
- (c) after subsection (2) there shall be inserted the following subsections—
  - “(3) Where the Secretary of State is satisfied as is mentioned in paragraph (c) of subsection (1), as read with subsection (1A), above, he may in his report under the said subsection (1), instead of or in addition to proposing a reduction in the amount of an element of rate support grant, propose a reduction in the rate determined by the local authority; and the provisions of the said subsection (1) shall apply to the amount of, reasons for and representations with respect to, the

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proposed reduction in rate as they apply to a proposed reduction in the amount of such element.

- (4) If a report under subsection (1) above is approved by the Commons House of Parliament and contains a proposal—
- (a) to reduce an element of rate support grant, the Secretary of State may reduce that element by an amount not exceeding the amount of the reduction proposed ;
  - (b) that there should be a reduction in the rate determined by the authority to which the report relates, the authority shall forthwith determine under this paragraph a new rate less, by the proposed reduction in the rate or by such smaller amount as the Secretary of State may agree, than the rate determined by them under section 108 of the Local Government (Scotland) Act 1973:

Provided that where, for any reason whatsoever, by the twenty-eighth day after the approval under this section of a report an authority have not made a determination required, in relation to that report, by paragraph (b) above the authority shall be deemed to have determined on that day a rate under the paragraph such that the reduction proposed under subsection (3) above by the Secretary of State is effected.

- (5) If an authority determine a rate under paragraph (b) of subsection (4) above, or are deemed by virtue of the proviso to that subsection to have determined such a rate, that rate and not the rate determined under the said section 108 shall be their regional, general or district rate, as the case may be, for the financial year and shall be levied (and the rights and liabilities of ratepayers shall be construed) accordingly.
- (6) The Secretary of State may by order under this subsection repeal or amend any enactment (including this Act) in so far as that enactment relates to the determination, levy or payment of a regional, general or district rate and such determination, levy or payment is affected by a determination (or deemed determination) under paragraph (b) of subsection (4) above.
- (7) An order made under subsection (6) above shall have no effect until approved by resolution of each House of Parliament.
- (8) A reference in this Act (except this section) and in any other enactment (except subsection (1) of the said section 108) whether passed before or after the passing of this Act, to such rates as are determined under the said section 108 shall be construed as including a reference to such rates as are determined, or are deemed to have been determined, under paragraph (b) of subsection (4) above.
- (9) Section 19 of the Local Government (Miscellaneous Provisions) (Scotland) Act 1981 (which among other things empowers the Secretary of State to make certain estimates where a local authority fail to supply him timeously with information) shall apply for the purposes of such of the Secretary of State's functions under this section as do not relate to rate support grants as it applies for the purposes of those which do.”

## **2 Prohibition of using sums from loans fund to offset effect of determination of new rate**

- (1) A local authority who determine, or are deemed to have determined, or anticipate that they will be required to determine, a rate under section 5 (4)(b) of the Local Government (Scotland) Act 1966 shall neither wholly nor partially offset the difference between that rate and the rate determined by them under section 108 of the 1973 Act with sums advanced from their loans fund:

Provided that such offsetting may nevertheless be permitted by the Secretary of State in any case on such terms and conditions as he considers appropriate.

- (2) If the Secretary of State is of the opinion that subsection (1) above, or any term or condition imposed under the proviso thereto, has been contravened the local authority shall, on such opinion being intimated to them, reimburse their loans fund forthwith or within such time as the Secretary of State may allow.
- (3) In subsections (1) and (2) above, "loans fund" means the loans fund established under Schedule 3 to the Local Government (Scotland) Act 1975.

## **3 Redetermination of estimated aggregate amount of rate support grants**

For subsection (1) of section 4 of the Local Government (Scotland) Act 1966 (which among other things empowers the Secretary of State to increase the amount fixed by a rate support grant order if he is satisfied that the relevant expenditure of local authorities has been, or is likely to be, substantially increased by an increase in prices, costs or remuneration) there shall be substituted the following subsection—

“(1) The Secretary of State may, at any time after the estimated aggregate amount of the rate support grants has been fixed for any year, redetermine, under section 2(2) of this Act, that amount for that year.”.

## **4 Rating of plant and machinery**

- (1) For the purpose of exempting from, or including in, any assessment or rate a class or classes of machinery, machines or plant, the Secretary of State may, in the definition of "lands and heritages" in section 42 of the Lands Valuation (Scotland) Act 1854, amend by order that proviso which relates to the construction of the expression "machinery fixed or attached"; and without prejudice to the generality of the foregoing provisions of this subsection, such amendment may be as regards—
- (a) any plant fixed or attached to the lands and heritages; and
  - (b) any building which is an integral part of such plant.
- (2) An order under subsection (1) above shall have no effect until approved by resolution of each House of Parliament.

## **5 Valuation of and reduction and remission of rates payable in respect of communal accommodation for single people**

- (1) In section 4 of the Local Government (Financial Provisions etc.) (Scotland) Act 1962 (which provides for reduction and remission of rates payable by charitable and other organisations)—
- (a) in subsection (2)—
    - (i) after paragraph (b) there shall be inserted the words—

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“; or

(c) are within any such category as the Secretary of State may by order specify, being a category of lands and heritages which are not used for profit-making purposes, which are wholly or mainly used as residential accommodation for persons living separately from any family and in which certain facilities are shared by those persons,”;

(ii) after the words " described in " there shall be inserted the word "—  
(i) " ; and

(iii) after the words " one-half" there shall be inserted the following sub-paragraph—

“(ii) paragraph (c) of this subsection shall not exceed such fraction (and different fractions may be specified for different cases) as the Secretary of State may by the said order specify,”;

(b) in subsection (5)(a), for the words " or (b)" there shall be substituted the words " (b) or (c) "; and

(c) at the end there shall be added the following subsection—

“(12) An order under subsection (2)(c) of this section shall have no effect until approved by resolution of each House of Parliament.”.

(2) Where the Secretary of State has power under paragraph (c) of section 4(2) of the said Act of 1962 (the which paragraph is inserted by subsection (1) above) to specify a category of lands and heritages he may instead or in addition prescribe a method whereby the values of, or of certain of, those lands and heritages are, for the purpose of making up any valuation roll, to be ascertained.

(3) Prescription under subsection (2) above shall be by order made by statutory instrument; and such order shall have no effect until approved by resolution of each House of Parliament.

## PART II

### LOCAL AUTHORITY FUNCTIONS

#### 6 **Effect of specific power or duty to incur expenditure at one tier of local government on exercise of general such power at different tier**

In section 83 of the 1973 Act (which provides a local authority with a general power to incur certain expenditure which it is not explicitly empowered to incur)—

(a) in subsection (2), after the word "that", where it occurs for the first time, there shall be inserted the words " , subject to subsection (3A) below, " ; and

(b) after subsection (3) there shall be inserted the following subsection—

“(3A) Where one of any two local authorities is a regional council and the other a district council, neither authority shall under the foregoing provisions of this section—

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- (a) incur; or
- (b) unless invited to do so by the other authority, contribute towards defraying,

expenditure which the other authority are, either unconditionally or subject to any limitation or to the satisfaction of any condition, expressly authorised (or required) to incur by or by virtue of any enactment other than this section.”

## 7 **Functions of local authority in relation to industrial promotion**

In the 1973 Act, after section 154 there shall be inserted the following sections—

### **“154A Industrial promotion.**

- (1) Subject to the following provisions of this section, a local authority may engage in industrial promotion: that is to say in promotion having as its aims the establishment or development of, or the procuring of investment in, or the effecting of measures to provide or safeguard employment in, industry.
- (2) Without prejudice to any power which they may have under section 90 of this Act, no local authority shall engage in industrial promotion other than under subsection (1) above.
- (3) In engaging in industrial promotion under subsection (1) above a regional or islands council may do anything, whether in Scotland or elsewhere, which appertains to or is conducive or incidental to such promotion ; but the powers of a district council under that subsection shall be limited to—
  - (a) within their own area, doing anything which appertains to or is conducive or incidental to such promotion;
  - (b) in any part of the United Kingdom, but only as regards specific industrial sites or premises (being sites or premises owned by them) and such services and other facilities as are or will be available in relation to such sites or premises, doing anything mentioned in, or incidental to anything mentioned in, paragraph (a) or (d) of the definition of "promotion" in subsection (4) below; and
  - (c) at the invitation of—
    - (i) the Secretary of State ;
    - (ii) the regional council within whose area the area of the district council is; or
    - (iii) a body designated, by order, for the purposes of this paragraph by the Secretary of State,contributing financially to, or participating in, any such promotion engaged in by the inviter or inviters:

Provided that for a regional or islands council to engage in, for a district council to participate in, or for any local authority to contribute financially to, industrial promotion outside the United Kingdom it shall be necessary for them either to have the express consent of the Secretary of State or to be acting in accordance with a general consent given by him.

- (4) In the foregoing provisions of this section, unless the context otherwise requires—

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" industry" has the same meaning as in the Industry Act 1975 ; and  
 " promotion " includes—

- (a) advertising; and preparing and disseminating information;
- (b) participating in trade or investment missions;
- (c) holding or taking part in such activities as seminars, exhibitions and symposiums ; and
- (d) carrying on correspondence and holding meetings with persons who are (or are potential or prospective) developers, investors or employers.

- (5) The exercise by a local authority of any power which they have—
- (a) under section 7 of the Local Government (Development and Finance) (Scotland) Act 1964 (power to make advances for erection of buildings);
  - (b) by virtue of section 102 (compulsory acquisition of land in connection with development and for other planning purposes) or under section 109 (acquisition of land by agreement) of the Town and Country Planning (Scotland) Act 1972 ; or
  - (c) under section 70, 74 or 78 of this Act,
- shall be subject to the foregoing provisions of this section.

#### **154B Code of practice for industrial promotion.**

- (1) Subject to subsection (2) below, the Secretary of State may issue (or arrange for there to be issued) a code of recommended practice as to the discharge of functions under section 154A of this Act by local authorities.
- (2) Before issuing (or arranging for the issue of) a code under subsection (1) above the Secretary of State shall consult any association of local authorities which appears to him to represent the interests of local authorities in Scotland.
- (3) The Secretary of State may by statutory instrument, subject to annulment in pursuance of a resolution of either House of Parliament, make regulations requiring local authorities to conform to any code issued under subsection (1) above.”.

### **8 Power of local authority to enter into arrangements under Employment and Training Act 1973**

Every local authority shall have power and shall be deemed always to have had power to enter into arrangements with the Manpower Services Commission or the Secretary of State under the provisions of the Employment and Training Act 1973.

### **9 Re-allocation of responsibility for certain local authority functions relating to the countryside**

- (1) As regards the Local Government (Development and Finance) (Scotland) Act 1964 and the Countryside (Scotland) Act 1967, the functions described in the sections thereof mentioned in the first column of Part I of Schedule 1 to this Act, being functions presently carried out by the bodies mentioned in the second column, shall, subject to subsection (3) below, henceforth only be carried out by the bodies mentioned in the third column.

- (2) In consequence of the re-allocation of functions which is provided for in subsection (1) above the said Acts of 1964 and 1967 shall have effect subject to the amendments mentioned in Part II of the said Schedule.
- (3) Notwithstanding the said re-allocation of responsibilities, regional councils and regional planning authorities may, so far as appears to them to be expedient for the purpose of exercising their functions under sections 40 (functions as regards longdistance routes), 48 (functions as regards country parks), 48A (functions as regards regional parks), 49A (functions as regards management agreements concerning the countryside), 61 and 63 (functions as regards the recreational use of waterways) of the said Act of 1967, exercise any function conferred on any other local authority or planning authority either by that Act or by the said Act of 1964.

## **10 Re-allocation of responsibility for the establishment of nature reserves**

In section 21(1) of the National Parks and Access to the Countryside Act 1949 (which relates to the establishment of nature reserves), for the words " a regional, islands or district council" there shall be substituted the words " a general or district planning authority ".

## **11 Islands or district council's functions in relation to tourism**

- (1) In section 90 of the 1973 Act (which among other things empowers a local authority to encourage tourism in their area)—
- (a) in subsection (1)—
- (i) for the words " A local authority " there shall be substituted the words " An islands or district council ";
- (ii) in paragraph (a) after the word " otherwise " there shall be inserted the words " (and whether inside or outside the United Kingdom) ";
- (iii) at the end of the subsection there shall be added the following proviso—
- “: Provided that any power under this subsection to do anything outside the United Kingdom shall be exercisable only with the express or general consent of the Secretary of State or with the express consent of such body as he may direct the islands or district council to consult.”; and
- (b) for subsection (2) there shall be substituted the following subsections—
- “(2) Without prejudice to subsection (1) above, an islands or district council may contribute towards expenses incurred by any person in his doing (or body in their doing) anything mentioned in paragraph (a) or (b) of that subsection:
- Provided that where such thing is done by the person (or body) outwith the United Kingdom the power conferred by the foregoing provisions of this subsection shall be exercisable only with such consent as is mentioned in the proviso to that subsection.
- (3) A regional council may contribute towards expenses incurred by any person in his doing (or body in their doing) anything mentioned in the said paragraph (a) or (b) if that council consider that the thing done is or would be of benefit to their area or to any part thereof.”.

(2) After the said section 90 there shall be inserted the following section—

**“90A Schemes involving collaboration in the promotion of tourism.**

After consultation with the Scottish Tourist Board, islands and district councils may prepare (or arrange for the preparation of) schemes, in which they may participate, providing for—

- (a) the forming of organisations of such persons as carry on, or have powers or duties as regards, or appear to the councils (or the person preparing the scheme) to have an interest in, activities which relate to tourism; and
- (b) the composition and functions of such organisations.”.

**12 Regional or islands council's functions in affording assistance for rural bus services**

In section 34(1) of the Transport Act 1968 (which empowers regional, islands or district councils to afford financial assistance for rural bus services), for the words “, islands or district” there shall be substituted the words “ or islands ”.

**13 Local authorities' functions in relation to the provision of caravan sites**

(1) In section 24 of the Caravan Sites and Control of Development Act 1960 (which empowers local authorities to provide sites for caravans), for subsection (8) there shall be substituted the following subsections—

“(8) In the foregoing provisions of this section “ local authority ” means an islands or district council but in relation to a caravan site providing accommodation for persons to whom subsection (8A) below applies includes a regional council and in relation to a caravan site the provision of which appears to a regional council or regional planning authority to be expedient for the exercise by them of any function which they have under section 40 (functions as regards long-distance routes), 48 (functions as regards country parks), 48A (functions as regards regional parks), 49A (functions as regards management agreements concerning the countryside), 61 or 63 (functions as regards the recreational use of waterways) of the Countryside (Scotland) Act 1967 includes that regional council or, as the case may be, regional planning authority.

(8A) This subsection applies to persons of nomadic habit of life, whatever their race or origin ; but it does not apply to—

- (a) members of an organised group of travelling showmen ; or
- (b) persons engaged in a travelling circus, travelling together as such.”.

(2) For subsection (2) of section 182 of the 1973 Act (which assigns to local authorities functions under Part I of the said Act of 1960), there shall be substituted the following subsection—

“(2) Subject to section 24(8) of the Caravan Sites and Control of Development Act 1960, the functions of local authorities under Part I of that Act shall be functions of islands and district councils.”.



**14 Islands or district council's duties in relation to the provision of recreational, sporting, cultural and social facilities and activities**

- (1) Subject to subsection (2) below and to section 19 of this Act, an islands or district council shall ensure that there is adequate provision of facilities for the inhabitants of their area for recreational, sporting, cultural and social activities.
- (2) Without prejudice to section 63 of the Countryside (Scotland) Act 1967 (which empowers water authorities to provide recreational facilities), in relation to the provision of facilities for the recreational or sporting use of—
  - (a) a reservoir (within the meaning of the Reservoirs Act 1975); or
  - (b) an inland waterway (within the meaning of the said Act of 1967) or any part of such waterway,which is managed and operated by a regional or islands council as water authority, no duty is imposed by subsection (1) above and no power conferred by sections 15 to 18 of this Act.

**15 Islands or district council's powers in relation to the provision of recreational, sporting, cultural and social facilities and activities**

- (1) The provisions of this section and of the following section are without prejudice to the duty imposed by subsection (1) of section 14 of this Act and are subject to subsection (2) of that section and to section 19 of this Act.
- (2) An islands or district council may provide or do, or arrange for the provision of or doing of, or contribute towards the expenses of providing or doing, anything necessary or expedient for the purpose of ensuring that there are available, whether inside or outside their area, such facilities for recreational, sporting, cultural or social activities as they consider appropriate.

**16 Provisions supplementary to section 15**

- (1) Without prejudice to the generality of their powers under section 15 of this Act, an islands or district council may, for the purposes of their functions under subsection (2) of that section—
  - (a) provide entertainment of any kind ;
  - (b) maintain—
    - (i) a band, orchestra or theatrical company ; or
    - (ii) any other body for the promotion of a recreational, sporting, cultural or social activity;
  - (c) permit any facility provided by the council under the said section 15 to be run by another person on such conditions (including conditions as to the charges if any)—
    - (i) to be imposed on the person in respect of the rights thereby enjoyed by him ; or
    - (ii) which may be imposed by the person on members of the public for admission to, or use or enjoyment of, that facility,as the authority think fit;
  - (d) use for the purposes of an entertainment provided, or a recreational, sporting, cultural or social activity provided or promoted, by them any facility (or any part thereof) provided by them under the said section 15 ;

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- (e) charge for admission to any facility provided by them under the said section 15 or for admission to or participation in, and for any programme supplied at or in connection with, any such entertainment or activity as is mentioned in paragraph (d) above ;
  - (f) accept the right to manage and control a park devoted or partly devoted to public use from the owner of that park or from any other person entitled to transmit that right;
  - (g) enter into an agreement with the owner of any park or with any other person whereby—
    - (i) access to the park for the public is obtained or enhanced; or
    - (ii) provision is made for management and control of the park by the council;
  - (h) let as a shop, stall or restaurant a building in a park under their management and control;
  - (i) set apart some of any such park for any purpose which they consider appropriate having regard to their functions under the foregoing provisions of this section and under the said section 15 ;
  - (j) do anything necessary to defend a public right in any park; or
  - (k) conduct, either by themselves or in collaboration with a voluntary organisation or other person, a competition in connection with a sporting or recreational activity; and with regard to that competition—
    - (i) paragraph (e) above shall apply as it applies to any such entertainment or activity as is mentioned in paragraph (d) above ; and
    - (ii) the council may provide trophies and prizes.
- (2) Without prejudice to the generality of their powers under section 15 of this Act, an islands or district council may contribute —
- (a) by way of grant or loan towards expenses incurred, or to be incurred, as regards recreational, sporting, cultural or social facilities or activities by a voluntary organisation or other person, not being a local authority, in providing or maintaining such facilities (or, as the case may be, in providing or promoting such activities) if the council have powers themselves, under the said section 15 or under the foregoing provisions of this section, to provide such facilities or activities ;
  - (b) by way of grant towards expenses incurred, or to be incurred, by another local authority in providing or maintaining any such facility or in providing or promoting any such activity;
  - (c) by way of grant towards expenses incurred, or to be incurred, by a harbour authority (within the meaning of the Harbours Act 1964) in providing, maintaining, managing or improving a harbour which is used (or is to be used) wholly or partly for sporting or recreational purposes; or
  - (d) towards the cost of maintaining a park owned by another person and to which the public are afforded access for recreation.

**17 Power of regional council to contribute financially towards the provision of recreational, sporting, cultural and social facilities and activities**

- (1) A regional council may, as regards recreational, sporting, cultural or social facilities or activities, contribute—

- (a) by way of grant towards expenses incurred, or to be incurred, by a district council; or
- (b) by way of grant or loan towards expenses incurred, or to be incurred, by a voluntary organisation or other person, not being a local authority,

in providing or maintaining such facilities (or as the case may be in providing or promoting such activities); and for the avoidance of doubt it is hereby declared that the powers under the foregoing provisions of this section in relation to cultural activities include the power to make such contributions as will promote music, theatre, opera, ballet and the other arts.

- (2) In the application of subsection (1) above to facilities which constitute a harbour, the reference in that subsection to providing or maintaining facilities shall be construed as including a reference to improving or managing them.

## **18 Byelaws in relation to recreational, sporting, cultural and social activities**

- (1) Subject to subsection (3) below, an islands or district council may make byelaws—
  - (a) for the regulation and preservation of ; and
  - (b) as regards the conduct of persons using,any such facility in the area of the council as is mentioned in sections 15 and 16 of this Act.
- (2) Byelaws made under subsection (1) above may provide that—
  - (a) a person contravening certain provisions of the byelaws commits an offence and is liable on summary conviction to a fine not exceeding £50 ;
  - (b) a person required to leave the facility by a person who is an officer of, and appropriately empowered by, the council commits an offence, and is liable on summary conviction to a fine not exceeding £50, if the requirement is not complied with ; and
  - (c) a person who appears to be committing or to have committed an offence under the byelaws may be removed from the facility by such officer as is mentioned in paragraph (b) above or by a constable.
- (3) Subject to subsection (4) below, where byelaws made under subsection (1) above by a council would relate—
  - (a) to a facility ; or
  - (b) to land or premises,which the council neither own nor manage and control, the agreement of the owner of, and of any person having an interest in, such facility, land or premises shall be obtained before the byelaws are so made.
- (4) Where any agreement required by subsection (3) above cannot be obtained because the owner or person is unknown, cannot be found or fails to respond in any way to a request for such agreement the council may nevertheless proceed to make the byelaws if they have advertised, in a newspaper circulating in the area in which the facility or land is, or the premises are, situated, that they propose to make them and if no objection to that proposal has been forthcoming from the owner or person within one month of such advertisement.

## **19 Interpretation of and savings in relation to sections 14 to 18**

- (1) In sections 14 to 18 of this Act—

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" park " includes a pleasure ground, public open space and public walk; and  
 " voluntary organisation " means any person carrying on, or proposing to carry on, an undertaking otherwise than for profit.

- (2) Nothing in this section or in sections 14 to 18 of this Act authorises a local authority to contravene any covenant or condition subject to which a gift or lease of any lands or premises has been accepted by, or made to, them unless consent to such contravention has been obtained from the donor, grantor, lessor or other person entitled in law to the benefit of the covenant or condition.
- (3) This section and sections 14 to 18 of this Act are without prejudice to any enactment—
- (a) relating to licensing or regulation of any matter referred to in any of those sections; or
  - (b) whereby a facility is open to the public free of charge.

## **20 Power of district council to acquire a harbour which is used wholly for sporting or recreational purposes**

In section 154 of the 1973 Act (which transfers rights, functions and liabilities in relation to harbours etc. to regional and islands councils)—

- (a) in subsection (1), at the beginning there shall be inserted the words " Subject to subsection (3A) below, "; and
- (b) after subsection (3) there shall be inserted the following subsections—

“(3A) A district council may acquire by agreement any—

- (a) harbour;
- (b) pier;
- (c) boatslip; or
- (d) jetty,

which is situated within their district and which is used (or is to be used) wholly for sporting or recreational purposes; and on such acquisition there shall vest in them the powers and duties of improving, maintaining and managing the harbour, pier, boatslip or, as the case may be, jetty.

(3B) Subsections (3) and (5) of section 70 of this Act shall apply to acquisition under subsection (3A) above as they apply for the purposes of that section.”.

## **21 Transfer of responsibility for flood warning systems from regional councils to river purification boards**

In the Agriculture Act 1970—

- (a) in section 92 (which empowers regional and islands councils to provide flood warning systems)—
  - (i) in subsection (1), for the words from the beginning of the subsection to the end of sub-paragraph (i) of the proviso to it there shall be substituted the words—

“A river purification board or an islands council may provide and operate a flood warning system for their area and may, both within, and (in the case of a river purification board)

outwith, that area, provide, install and maintain apparatus and carry out any engineering or building operations required for the purposes of any such system:

Provided that—

- (i) before the exercise by a river purification board of any of the powers conferred on them by the foregoing provisions of this subsection (other than the power to maintain apparatus) that board shall consult each local authority within whose area the power is to be exercised;
- (ia) before such exercise by a river purification board or by an islands council that board or council shall, as regards such police duties as arise under section 17(1)(a)(ii) and (iii) of the Police (Scotland) Act 1967 (general duties of guarding, patrolling and watching so as to preserve order and protect life and property) in relation to any danger of flooding, consult the chief constable of each region (or as the case may be of the islands area) within which the power is to be exercised;”; and
- (ii) in subsection (2), for paragraph (b) there shall be substituted the following paragraphs—
  - “(b) " local authority" means a regional or district council; and
  - (c) " river purification board " means any such board as is established under section 135 of the Local Government (Scotland) Act 1973 (which makes provision as regards the reassignment of functions relating to the prevention of river pollution).”;
- (b) in section 94 (which makes provision for cooperation with other persons as regards apparatus for the purposes of such systems), for the words " local authority " in each of the three places where they occur there shall be substituted the words " river purification board or islands council ";
- (c) sections 95 (which relates to the compulsory purchase of land required for the exercise of functions relating to the provision of such systems) and 96 (which confers powers of entry in relation to such exercise) shall cease to have effect; and
- (d) in section 98 (which makes provision as regards the extent of so much of the Act as relates to flood warning systems in Scotland), for the words " local authority " there shall be substituted the words " river purification board ".

## **22 Re-allocation of responsibility for the enforcement of certain provisions of the Food and Drugs (Scotland) Act 1956**

Regional councils shall cease to have powers and duties under or by virtue of the Food and Drugs (Scotland) Act 1956 except that they shall retain such powers and duties as are mentioned in section 27 of that Act (which relates among other things to the appointment of public analysts); and accordingly in the said Act—

- (a) in section 26 (which specifies, or makes provision for the specification of, administrative authorities for the purposes of the Act)—

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- (i) in subsection (3) the words " regional councils " shall cease to have effect;
- (ii) in subsection (4), for the words " \* regional," there shall be substituted the word " an ";
- (b) after section 27 there shall be inserted the following section—

**“27A Payment by district councils for services of public analysts.**

- (1) The fee payable to a public analyst in respect of his analysis of samples submitted to him by a sampling officer of a district council shall, subject to the following provisions of this section, be fixed by the council which appointed the analyst:

Provided that the foregoing provisions of this subsection apply only where the analyst is the employee of the council which appointed him.

- (2) A council, before fixing a fee under subsection (1) above, shall—
  - (a) work out what proportion, approximately, of the total cost to them of employing (and providing working facilities and equipment for) the public analyst is attributable to the analysis done by him for the sampling officer, and shall propose such fee as would recover that proportion from the district council; and
  - (b) consult with the district council, with a view to securing their agreement to the fee proposed.
- (3) Where the district council will not agree a fee proposed under subsection (2) above, either council may apply to the Secretary of State for the appointment under this subsection of an arbiter.
- (4) The decree arbitral of an arbiter appointed under subsection (3) above shall be final and conclusive as regards the fee to be fixed under subsection (1) above; and the expenses of the arbitration shall be borne jointly by the parties.”; and
- (c) in the proviso to subsection (3) of section 29 (the which proviso empowers an analyst to demand a fee in advance from certain persons), after the word " may ", where it first occurs, there shall be inserted the words " , except in a case where the fee falls to be fixed under section 27A of this Act, " .

**23 General powers of local authority to assist community council**

In section 55 of the 1973 Act (which empowers a regional, islands or district council to contribute towards the expenses etc. of a community council in their area), the word "Regional," shall cease to have effect.

**24 Islands or district council's functions in relation to the provision of gardening assistance for the disabled and the elderly**

- (1) An islands or district council may provide, or arrange for the provision of, gardening assistance for persons who require such assistance by reason of physical disability, chronic illness or old age.

- (2) Section 32(1)(b) of the Housing (Financial Provisions) (Scotland) Act 1972 (which requires a local authority to charge for services provided by them under the terms of the tenancy of a house) shall not apply in relation to assistance provided under subsection (1) above; but the local authority shall, recover from any person availing himself of that assistance such charges as appear to them to be reasonable (unless the person's circumstances are such as to render any charge inappropriate).
- (3) Without prejudice to the validity of any instruction which may be given, under section 3(1)(b) of the Community Service by Offenders (Scotland) Act 1978, by a local authority officer in fulfilling any requirement imposed on the local authority by a community service order under that Act, a local authority shall not provide, or arrange for the provision of, such assistance as is mentioned in subsection (1) above except in accordance with, and in so far as empowered by, the foregoing provisions of this section.

## **25 Islands or district council's functions in relation to street cleansing**

- (1) It shall be the duty of each islands and district council to undertake the cleansing of the streets in their area; and no regional council shall undertake such cleansing (other than as an agent of a district council).
- (2) An islands or district council may, with the consent of each person who has an interest in or is the occupier of any relevant land in their area, arrange for the cleansing of the land and may enter into an agreement with any such person for the payment by him of charges in respect of the cleansing.
- (3) In subsections (1) and (2) above "cleansing" means such cleansing as appears to the islands, or as the case may be district, council to be necessary in the interests of public health or safety or of the amenities of their area but does not include operations for the removal of snow or ice; in subsection (2) above "relevant land" means any land, in the open air, to which members of the public have access and which is not comprehended in a street; and in subsection (1) above and in the foregoing provisions of this subsection "street" means—
  - (a) any road maintained by a highway authority and over which there is a public right of passage for vehicles ; or,
  - (b) any paved, macadamised, asphalted, flagged, cobbled or similarly surfaced way over which there is a public right of passage on foot only and which is maintained by the islands or district council or by a regional council;but the expression does not include a trunk road within the meaning of section 50(1) of the Roads (Scotland) Act 1970 or a special road within the meaning of the Special Roads Act 1949.

## **26 Islands or district council's functions in relation to the provision of public conveniences**

- (1) An islands or district council may provide, equip and maintain fixed or moveable public conveniences in such places as appear to them to be suitable and may make such reasonable charges as they may determine for the use of such conveniences.
- (2) In subsection (1) above "conveniences" means water-closets, or urinals, and washing facilities for use in connection therewith.

**27 Islands or district council's functions in relation to the provision of a market**

- (1) An islands or district council may establish and hold a market, may provide market buildings and may—
- (a) provide in any such market or market buildings—
    - (i) stalls or stands ;
    - (ii) warehouses, offices, shops or stores; and
    - (iii) premises for supplying food and refreshments (including alcoholic liquor);
  - (b) impose—
    - (i) such conditions for the use of the market or market buildings by stallholders or other persons as the council consider appropriate ; and
    - (ii) such charges in relation to such use or for entrance to the market or market buildings as will be sufficient to meet the expenses of the authority in carrying out their functions under this section ;
  - (c) make byelaws regulating the market, the activities of persons selling goods therein and the behaviour of the public while therein ; and
  - (d) do such other things as they consider expedient for the purposes of the market.
- (2) Byelaws made under subsection (1)(c) above may provide that a person contravening certain provisions of the byelaws commits an offence and is liable, on summary conviction, to a fine not exceeding £50.
- (3) An islands or district council may—
- (a) discontinue the whole, or any part, of a market established under subsection (1) above by them ; and
  - (b) grant exemption from a condition imposed under subsection (1)(b)(i) above, charge imposed under subsection (1)(b)(ii) above or byelaw made under subsection (1)(c) above.
- (4) Without prejudice to section 83 (3A) of the 1973 Act, nothing in the foregoing provisions of this section affects any existing right of a local authority to establish or regulate a market or to fix a market place.
- (5) In the foregoing provisions of this section the expression " market" shall be construed generally and not as limited to a place where a market is held by virtue of a grant from the Crown or of prescription or under statutory authority.

**28 Islands or district council's functions in relation to the provision of clocks**

An islands or district council—

- (a) may provide a clock for public purposes and may maintain, illuminate or remove such clock; and
- (b) where a clock is not owned by the council but is open to public view, may for the purposes of securing its maintenance or illumination enter into an agreement with its owner.

**29 Power to repeal local statutory provisions which are superseded by provisions of this Act**

- (1) The Secretary of State may by order made by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament repeal or amend, on such



date as may be appointed in the order, any local statutory provision in so far as that provision appears to him to be inconsistent with, or to have become unnecessary or to require alteration in consequence of, any provision of this Act.

- (2) Different dates may be appointed under subsection (1) above in respect of different local statutory provisions; and any such date may, where the local statutory provision is one to which section 225(6) of the 1973 Act (which prospectively repeals certain such local statutory provisions) applies, be earlier than that on which the local statutory provision would cease, under the said section 225(6), to have effect.

### **30 Power of islands and district councils to provide and maintain roadside seats**

- (1) Without prejudice to any existing power which they have in that regard, islands and district councils may, for the use of the public, provide and maintain seats on any footway in their area; and they may maintain any such seats donated to them.
- (2) In this section " footway " means a way which is associated with a carriageway and over which the public has a right of passage on foot only.

### **31 Cessation of regional council's functions as regards war memorials**

In section 170 of the 1973 Act (which designates regional, islands and district councils as local authorities for the purposes of the War Memorials (Local Authorities' Powers) Act 1923) for the words " local authority within the meaning of this Act " there shall be substituted the words " islands or district council ".

### **32 Delegation of functions by sub-committees of local authorities**

For section 56(2) of the 1973 Act (which permits a committee of a local authority to arrange for a sub-committee or an officer of the authority to discharge functions of the authority) there shall be substituted the following subsection—

- “(2) Where by virtue of this section any function of a local authority may be discharged by any committee or sub-committee of theirs, then, unless the local authority otherwise direct
- (a) the committee may arrange for the discharge of any of those functions by a sub-committee or an officer of the authority ; and
  - (b) the sub-committee, whether assigned the discharge of functions by the authority or by a committee, may arrange for the discharge of any such functions by an officer of the authority.”.

### **33 Consequential transfer of officers of local authorities**

- (1) Where, in the period immediately before the coming into force of a provision of this Act, an officer of a local authority (that authority being in this section referred to as the first local authority) is wholly or mainly employed in duties pertaining, irrespective of how his office or employment is formally described, to a specific function of the authority but under or by virtue of that provision either—
  - (a) the function ceases to be a function of the first local authority and becomes instead one of a different local authority (in this section referred to as the second local authority); or

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- (b) the powers and duties of the two local authorities as regards the function are re-allocated so that the second local authority come to have the principal responsibility (within their own area) for that function,

the officer shall be transferred into the employment of the second local authority:

Provided that, as regards any transfer in respect of which the first local authority is a regional council and the second local authority might be any of the district councils in the region, the authority which is to be the second local authority shall be determined jointly by the regional council and district councils; but they shall take into consideration any preference expressed by the officer concerned.

- (2) The Secretary of State shall under this subsection issue a code of recommended practice as to transfers under subsection (1) above; and a local authority shall, as regards each such transfer, conform to that code unless, or in so far as, the officer, they and the first (or as the case may be the second) local authority all agree otherwise.
- (3) Before issuing a code under subsection (2) above, the Secretary of State shall consult—
- (a) any association of local authorities which appears to him to represent the interests of local authorities in Scotland ; and
  - (b) any body which appears to him both to represent the interests of officers of local authorities in Scotland and to be a body with whom consultation is desirable.
- (4) A dispute between or among local authorities as regards when or whether a transfer falls to take place under subsection (1) above, as to which of two or more district councils are to be the second local authority in relation to any such transfer, or as to any other matter concerning any such transfer, shall be resolved by arbitration under this subsection.
- (5) Except in so far as is manifest from the foregoing provisions of this section, nothing in those provisions or in any code issued under subsection (2) above shall affect any legal right or entitlement of an officer of a local authority.
- (6) In the foregoing provisions of this section " local authority " includes a river purification board established under section 135 of the 1973 Act.

### **34 Consequential transfer of property of local authorities**

- (1) Where under or by virtue of a provision of this Act
- (a) a function of a local authority (that authority being in this section referred to as the first local authority) ceases to be a function of that authority and becomes instead one of a different local authority (in this section referred to as the second local authority) ; or
  - (b) the powers and duties of the two local authorities are re-allocated so that the second local authority come to have the principal responsibility (within their own area) for that function,
- then, subject to any such agreement as is provided for in subsection (2) below and to subsection (6) below—
- (i) any property (not being property held in trust) of the first local authority which is wholly or mainly used, or held, by that authority in relation to the discharge of that function (whether or not it is leased by them to a third party);

- (ii) any property held in trust by (or by councillors or officers of) the first local authority for purposes wholly or mainly related to that function ; and
- (iii) any right to nominate trustees which is enjoyed by the first local authority in respect of property held in trust (other than such property as is mentioned in sub-paragraph (ii) above) and which is wholly or mainly attributable to their having the function, or the principal responsibility therefor,

shall forthwith transfer to, and shall vest in, the second local authority or (in the case of property held in trust by councillors or officers of the first local authority) to and in councillors, or officers, nominated by the second local authority:

Provided that, as regards any transfer in respect of which the first local authority is a regional council and the second local authority might be any of the district councils in the region, the authority which is to be the second local authority shall be determined jointly by the regional council and district councils; and any agreement such as is mentioned in the foregoing provisions of this subsection shall, where it relates to a transfer such as is mentioned in the foregoing provisions of this proviso, or where such transfer would take place but for the agreement, require to be between the regional council and all the district councils in the region:

Provided also that in the case of the property mentioned in sub-paragraph (i) above transfer and vesting shall be without prejudice to the conditions of any such lease as is referred to in that sub-paragraph and in the case of the property mentioned in sub-paragraph (ii) above shall be subject to the trust referred to in the said sub-paragraph (ii).

- (2) Subject to the first proviso to subsection (1) above, if or in so far as the first and the second local authority both agree that-
  - (a) property shall not be transferred by sub-paragraph (i) of that subsection; or
  - (b) a right shall not be transferred by sub-paragraph (iii) thereof,that subsection shall have no effect as regards the property, or as the case may be the right; but even where there is such agreement as is mentioned in paragraph (a) above, any use or holding by the first local authority of the property to which the agreement relates shall no longer be in relation to such discharge as is mentioned in the said sub-paragraph (i).
- (3) The Secretary of State may under this subsection issue a code of recommended practice as to transfers under subsection (1) above; and a local authority shall, as regards each such transfer, conform to that code unless, or in so far as, the first local authority and the second local authority agree otherwise.
- (4) Before issuing a code under subsection (2) above, the Secretary of State shall consult any association of local authorities which appears to him to represent the interests of local authorities in Scotland.
- (5) A dispute between or among local authorities as regards whether a transfer falls to take place under subsection (1) above, as to which of two or more district councils are to be the second local authority in relation to any such transfer, or as to any other matter concerning any such transfer shall be resolved by arbitration under this subsection.
- (6) In subsections (1) and (2) above " property " means any property, heritable or moveable, which does not constitute or form part of a harbour and it includes all interests, rights and liabilities in or relating to such property ; in the foregoing provisions of this subsection " harbour " means anything mentioned in paragraphs (a) to (d) of section 154(3A) of the 1973 Act; and in the foregoing provisions of

this section " local authority " includes a river purification board established under section 135 of the 1973 Act.

### **35 Arbitration under section 33(4) or 34(5)**

In any arbitration under section 33(4) or 34(5) of this Act

- (a) a person agreed upon between the parties, or in default of such agreement appointed on the application of either (or any) of the parties by the Secretary of State, shall be arbiter;
- (b) the arbiter shall, in so far as is practicable, have regard to the code of recommended practice issued under section 33(2), or as the case may be 34(3), of this Act;
- (c) the decree arbitral shall be final and conclusive ; and
- (d) the expenses shall be borne jointly by the parties.

## **PART III**

### PLANNING

### **36 Secretary of State's discretion as regards public examination of structure plans**

In section 7 of the 1972 Act (which relates to the approval or rejection of structure plans by the Secretary of State), for paragraph (b) of subsection (3) there shall be substituted the following paragraph—

- “(b) if, but only if, it appears to him that an examination in public should be held of any matter affecting his consideration of the plan, cause a person or persons, appointed by him for the purpose, to hold such an examination.”.

### **37 Proposals for alterations to structure plans**

In section 8 of the 1972 Act (which relates to the submission of proposals for alterations to structure plans)—

- (a) in subsection (1)—
  - (i) after the words " that plan" there shall be inserted the words " (which may include proposals for repeal and replacement) "; and
  - (ii) at the end there shall be added the words " and may provide for the repeal of two or more structure plans and their replacement with one structure plan. ";
- (b) in subsection (2), after the words " sections 6 " there shall be inserted the word " (2) "; and
- (c) after subsection (2) there shall be added the following subsections—
  - “(3) Before a planning authority submit proposals under this section they shall give such publicity (if any) to, and undertake such consultation (if any) about, the said proposals as they think fit, and shall consider any representations timeously made to them about such proposals.
  - (4) The planning authority shall send with any proposals submitted by them under this section a statement of the steps they have taken to

comply with subsection (3) above and, if they have not publicised or have not consulted under that subsection, the statement shall explain the absence of such publicity or as the case may be consultation.

- (5) If the Secretary of State is not satisfied with the steps taken by the planning authority to comply with subsection (3) above, or as the case may be if he is not satisfied with the terms of any explanation provided by them under subsection (4) above, he may return the proposals to the authority, and may direct them—
  - (a) to take such steps or further steps as he may specify; and
  - (b) after they have done so, to resubmit the proposals with such modification, if any, as they consider appropriate.
- (6) Where, under subsection (5) above, the Secretary of State returns proposals, he shall inform the authority of his reasons for doing so and, if any person has made to him an objection to the proposals, shall also inform that person that he has returned the proposals.
- (7) A planning authority who are given directions under subsection (5) of this section shall forthwith withdraw the copies which have, under section 6(2) of this Act (as applied by subsection (2) above) been made available for inspection.
- (8) The said section 6(2) and subsections (3) to (7) above shall apply, in relation to proposals resubmitted in accordance with directions given under subsection (5) above, as they apply in relation to proposals submitted under subsection (1) above.”.

### **38 Inquiries with respect to local plans**

In subsection (1) of section 11 of the 1972 Act (which relates, among other things, to inquiries with respect to local plans)—

- (a) after the word " shall", where it occurs for the first time, there shall be inserted the word " if "; and
- (b) after the word " Act", where it occurs for the first time, there shall be inserted the words " an objector so requires, ".

### **39 Modification of local plans**

In subsection (1) of section 12 of the 1972 Act (which relates to the adoption and approval of local plans), for the words " any such objections or of any matters arising out of such objections " there shall be substituted the words—

“—

- (a) any such objections (whether or not they have been the subject of a local inquiry or other hearing);
- (b) any matters arising out of such objections ; or
- (c) any drafting or technical matters, if these are of a minor nature.”.

### **40 Alteration of local plans**

In section 13 of the 1972 Act (which relates to the alteration of local plans)—

- (a) for subsection (1) there shall be substituted the following subsection—
- “(1) A planning authority shall keep under review any local plan adopted by them, or approved by the Secretary of State, and may at any time make proposals for the alteration, repeal or replacement of such plan; and any such proposals may include proposals for the repeal of two or more local plans and their replacement with one local plan:
- Provided that where a local plan has been approved by the Secretary of State they shall not make such proposals in relation to that plan without his consent.”;
- (b) in subsection (3), at the beginning there shall be inserted the words " Subject to subsection (4) below "; and
- (c) at the end there shall be added the following subsections—
- “(4) If a planning authority do not consider it appropriate to take the steps required by section 10(1) of this Act in relation to proposals made by them under subsection (1) of this section for alteration of a local plan, they may instead include, with the copies of those proposals made available for inspection and with the copy sent to the Secretary of State under section 10(2) of this Act, a statement of their reasons for not taking such steps.
- (5) In carrying out their duty under subsection (1) above the authority shall have regard to any structure plan approved for the area by the Secretary of State.”.

#### **41 Publication of notices of planning applications**

For section 23 of the 1972 Act (which relates to the publication of notices of planning applications) there shall be substituted the following section—

##### **“23 Publication of notices of applications.**

- (1) Subject to subsection (2) below, a development order may provide, either in relation to applications generally or in relation to applications of a class or classes prescribed in the order, that—
- (a) any such application shall have been notified to such persons or classes of person, and in such manner, as may be so prescribed;
  - (b) any such application shall have been advertised, either in a local newspaper or on the land to which the application relates, or both, in such a manner and for such a period or on such a number of occasions as may be so prescribed;
  - (c) any newspaper advertisement required by virtue of paragraph (b) above shall be placed by the planning authority to whom the application is made ;
  - (d) the planning authority may recover from the applicant the cost incurred by them in arranging any such advertisement;
  - (e) any such application shall be accompanied by such certificates as to compliance with the requirements of provisions made under paragraphs (a) and (b) above as may be so prescribed;

- (f) the applicant shall furnish, at such time and to such persons as may be so prescribed, such information with respect to the application as may be so prescribed ;
- (g) no such application shall be entertained unless such further conditions as to payment as may be so prescribed have been complied with;
- (h) no such application shall be determined until after the expiry of any period which may be so prescribed.

- (2) The applications mentioned in subsection (1) above are—
  - (a) applications for planning permission ;
  - (b) applications for an approval required by a development order; or
  - (c) applications for any consent, agreement or approval required by a condition imposed on a grant of planning permission.
- (3) If any person knowingly or recklessly—
  - (a) issues a notification; or
  - (b) makes advertisement (other than newspaper advertisement); or
  - (c) supplies a certificate,

which purports to comply with provisions made under subsection (1) above but which contains a statement which is false or misleading in a material particular, he shall be guilty of an offence, and liable on summary conviction to a fine not exceeding £200.”.

#### **42 Notice of dangerous buildings orders affecting listed buildings**

After section 54B of the 1972 Act (which is inserted in that Act by paragraph 16 of Schedule 2 to this Act) there shall be inserted the following section—

##### **“54C Intimation of notices etc. affecting listed buildings.**

- (1) Subject to subsection (2) below, where a local authority—
  - (a) have, under or by virtue of any enactment, served a notice requiring any person to show cause why a listed building should not conform to the building regulations; or
  - (b) have, under or by virtue of any enactment, served a notice or made an order requiring—
    - (i) the demolition of such a building; or
    - (ii) the carrying out of works affecting such a building ; or
  - (c) propose (whether under or by virtue of any enactment or otherwise) to carry out emergency works or demolitions affecting such a building,they shall forthwith give written intimation of the notice, order, or proposal, as the case may be, to the planning authority:

Provided that where the building is owned, leased or occupied by the planning authority, the local authority (whether or not they are the planning authority) shall also give such intimation to the Secretary of State.

- (2) Where the safety of the public requires that any demolition or works be carried out without such delay as would result from compliance with the provisions of subsection (1) above, the intimation (which may, in such a case, initially

be oral) shall be given as long before the commencement of the demolition or works as is consistent with that requirement.”.

#### **43 Power of regional planning authority to take enforcement action**

After section 84 of the 1972 Act there shall be inserted the following section—

##### **“84A Power of regional planning authority to take enforcement action.**

- (1) If a regional planning authority are of the opinion that a structure plan prepared by them and approved by the Secretary of State is materially prejudiced by a breach of planning control they may, after consultation with any district planning authority in whose district the breach has taken place, and subject to subsection (2) below, serve an enforcement notice under this subsection requiring the breach to be remedied.
- (2) Where a regional planning authority serve a notice under subsection (1) above the provisions of sections 84 (except subsection (1)), 85, 86, 87, 88, 89, 89A, 166, 265(1)(c) and 265(2A) of this Act shall apply, with any necessary modifications, in relation to the regional planning authority and a notice under subsection (1) above as they apply in relation to a district planning authority and a notice under subsection (1) of the said section 84.”.

#### **44 Register of waste land, enforcement and stop notices**

After section 87 of the 1972 Act there shall be inserted the following section—

##### **“87A Register of waste land, enforcement and stop notices.**

- (1) Every general and district planning authority shall, with respect to waste land notices, enforcement notices and stop notices which have been served in relation to land in their district, keep a register—
  - (a) in such manner; and
  - (b) containing such information,as may be prescribed; and there may also be prescribed circumstances in which an entry in the register shall be deleted.
- (2) Every register kept under this section shall be available for inspection by the public at all reasonable hours.”.

#### **45 Power of local authorities to recover cost of various orders**

After section 210 of the 1972 Act there shall be inserted the following section—

##### **“210A Recovery of costs of making orders relating to roads, paths etc.**

- (1) Where, after the coming into force of this section, a person requests a local authority to make an order to which this subsection applies, the local authority may require him, as a condition of their compliance with the request, to make such provision as they consider reasonable as regards any costs to be incurred by them in so complying.



- (2) The orders to which subsection (1) above applies are orders under any of the following enactments—
- (a) section 198A of this Act (orders authorising the stopping up or diversion of certain highways) ;
  - (b) section 199 of this Act (orders authorising the stopping up or diversion of footpaths or bridleways);
  - (c) section 200 of this Act (orders authorising the stopping up or diversion of certain highways crossing or entering the route of a proposed new highway);
  - (d) section 201 of this Act (orders extinguishing the right to use vehicles on a highway);
  - (e) section 12 of the Roads (Scotland) Act 1970 (orders stopping up an unnecessary road or one dangerous to the public);
  - (f) section 34 of the Countryside (Scotland) Act 1967 (orders as regards the closure of public paths); and
  - (g) section 35 of the said Act of 1967 (orders as regards the diversion of public paths).”.

#### **46 Power of planning authorities to vary planning permission**

After section 31 of the 1972 Act there shall be inserted the following section—

##### **“31A Power of planning authorities to vary planning permission.**

Notwithstanding any other provision of this Part of this Act, a planning authority may, at the request of the grantee or of a person acting with his consent, vary any planning permission granted by them, if it appears to them that the variation sought is not material.”.

#### **47 Restriction on further appeal following decision of Secretary of State on appeal under section 63A, 85 or 93 of the 1972 Act**

In subsection (3) of section 231 of the 1972 Act (which, among other things, relates to appeals against certain decisions of the Secretary of State)—

- (a) after paragraph (e) there shall be inserted the following paragraph—
  - “(ee) any decision of the Secretary of State on an appeal to him under section 63A of this Act against a waste land notice;”;
- (b) in paragraph (f), the words “(1)(a), (f) or (g)” shall cease to have effect; and
- (c) for paragraph (h) there shall be substituted the following paragraph—
  - “(h) any decision of the Secretary of State on an appeal to him under section 93 of this Act against a listed building enforcement notice;”.

#### **48 Further amendments of the 1972 Act**

The 1972 Act shall have effect subject to the amendments specified in Schedule 2 to this Act.

**PART IV**

## MISCELLANEOUS AND SUPPLEMENTARY

*Miscellaneous***49 Power of local authority to make an advance for the acquisition of land or erection of buildings**

In section 7 of the Local Government (Development and Finance) (Scotland) Act 1964 (which empowers a local authority to make an advance for the erection of a building on land sold, feued or let by them)—

(a) for subsection (1) there shall be substituted the following subsection—

“(1) Where a local authority are satisfied that it would be for the benefit or improvement of their area, they may, subject to the provisions of this section, advance money to any person for the purpose of enabling him either—

(a) to acquire land ; or

(b) to erect any building or carry out any work on land.”; and

(b) for subsection (3) there shall be substituted the following subsection—

“(3) The amount of the principal of an advance shall not exceed nine-tenths of—

(a) where the advance is made under subsection (1)(c) above, the value of the land ; or

(b) where the advance is made under subsection (1)(b) above, the value which it is estimated will be the value of the land on the completion of the building, or as the case may be works,

in respect of which the advance is made.”.

**50 Power of local authority to incur expenditure for certain purposes not otherwise authorised**

In section 83 of the 1973 Act (which gives local authorities power to incur expenditure for certain purposes not otherwise authorised, but limits the expenditure which it authorises)—

(a) the following subsections shall be inserted after subsection (2)—

“(2A) Without prejudice to the generality of subsection (1) above, the power of a local authority to incur expenditure under that subsection includes power to incur expenditure in giving financial assistance to persons carrying on commercial or industrial undertakings.

(2B) Financial assistance under subsection (2A) above may be given by lending or guarantee, or by making grants.”;

(b) the following subsections shall be inserted after subsection (4)—

“(4A) For the purpose of determining whether a local authority have exceeded the limit set out in subsection (4) above, their expenditure in any financial year under this section shall be taken to be the difference

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*Status: This is the original version (as it was originally enacted).*

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between their gross expenditure under this section for that year and the aggregate of the amounts specified in subsection (4B) below.

(4B) The amounts mentioned in subsection (4A) above are—

- (a) any grant paid to the local authority for that year under the Local Government Grants (Social Need) Act 1969, in so far as the grant is in respect of an activity in relation to which the authority have incurred expenditure in that year under this section ;
  - (b) the amount of any repayment in that year of the principal of a loan for the purpose of financing expenditure under this section in any year;
  - (c) so much of any amount raised by public subscription as is spent in that year for a purpose for which the authority are authorised by this section to incur expenditure ;
  - (d) any grant received by the authority for that year out of the European Regional Development Fund or the Social Fund of the European Economic Community, in so far as the grant is in respect of an activity in relation to which the authority incurred expenditure in that year under this section;
  - (e) the amount of any repayment in that year of a loan under this section made by the authority in any year ; and
  - (f) the amount of any expenditure—
    - (i) which is incurred by the authority in that year in circumstances specified in an order made by the Secretary of State ; or
    - (ii) which is incurred by the authority in that year and is of a description so specified; or
    - (iii) which is defrayed by any grant or other payment to the authority which is made in or in respect of that year and is of a description so specified.”; and
- (c) in subsection (5), for the words " subsection (4) above " there shall be substituted the words " this section ".

## **51 Improvement grants for the disabled**

In the Housing (Scotland) Act 1974—

- (a) after subsection (1) of section 7 (which requires local authorities to make improvement grants in certain circumstances) there shall be inserted the following subsections—

“(1AA) Where an application in that behalf is made to a local authority in relation to any house, an improvement grant shall be made under subsection (1) above in respect of the cost of executing works required for the house to be provided with a standard amenity, notwithstanding that the house already has such a standard amenity, if in the opinion of the local authority the additional standard amenity to be provided is essential to the needs of a disabled occupant.

(1AB) In this section " disabled occupant" has the same meaning as in section 1 of this Act.”; and

- (b) in subsection (5) of section 5 (which relates to the amount of improvement grants) after the words " section 7 thereof " there shall be inserted the words " or in respect of works for the benefit of a disabled occupant (within the meaning: of section 1 of this Act) ".

## **52 Grants where local authorities require provision of fire escapes for houses in multiple occupation**

- (1) After section 10A of the Housing (Scotland) Act 1974 there shall be inserted the following section—

### **“10B Grants for fire escapes for houses in multiple occupation.**

- (1) Subject to the provisions of this section, where a local authority have served on any person, other than a public body, a notice under section 107 of the Housing (Scotland) Act 1966 (which empowers a local authority to require the provision of a means of escape from fire in a house in multiple occupation) they shall make a grant to that person in respect of—
- (a) the works specified in the notice ; and
  - (b) any other works required in connection with the works so specified, if an application for such grant is made by him in accordance with the provisions of this section and approved by the local authority.
- (2) A local authority shall not approve an application under this section unless they are satisfied that at the time of completion of the works to which the application relates the house will be in reasonable repair (disregarding the state of internal decorative repair) having regard to its age, character and location.
- (3) Where a local authority approve an application under this section they shall determine the maximum amount of expenses which they think proper to be incurred for the relevant works; but so much of such amount as relates to works referred to in—
- (a) paragraph (a) of subsection (1) above shall not exceed £6,750 or such other amount as may be prescribed;
  - (b) paragraph (b) of that subsection shall not exceed £2,500 or such other amount as may be prescribed.
- (4) Subject to subsection (5) below, the amount of grant payable under subsection (1) above in relation to any application shall be 75 per cent, of the maximum amount determined under subsection (3) above in relation thereto or such other percentage of that maximum amount as may be prescribed.
- (5) If, in any case, it appears to the local authority by whom the application is approved that the applicant will not without undue hardship be able to finance the cost of so much of the work as is not met by the grant, they may, as regards that case, increase the percentage referred to in subsection (4) above to such percentage, not exceeding 90 per cent., as they think fit.
- (6) Sections 2 and 4 to 10 of this Act (other than section 4(3)(b), section 5(1), (1A), (3), (3A), (5) and (6) and section (7) shall apply to an application for a grant under subsection (1) above as they apply to an application for an improvement grant, except that for the purposes of such application the

reference to " section 5(1) or, as the case may be, 7(4) " in section 6(1)(b) shall be construed as a reference to subsection (4) or, as the case may be, (5) of this section.

(7) In subsection (1) above " public body " means a regional, islands or district council or such other body as the Secretary of State may by order specify.”.

(2) In subsection (1) of section 107 of the Housing (Scotland) Act 1966 at the end there shall be added the words " ; and it shall serve a notice under the foregoing provisions of this subsection if such house is of such description or occupied in such manner as the Secretary of State may, with the consent of the Treasury, specify by order a draft of which has been approved by the Commons House of Parliament. ".

### **53 Limitation on payment which may be required of persons exercising right to purchase under Tenants' Rights, Etc. (Scotland) Act 1980**

(1) In section 1 of the Tenants' Rights, Etc. (Scotland) Act 1980 (which relates to the rights of a public sector tenant to purchase the house which he occupies) after subsection (1) there shall be inserted the following subsection—

“(1A) Subject to subsection (1) above and to sections 2(8) and 6 of this Act no person exercising (or seeking to exercise) a right to purchase under the said subsection (1) shall be obliged, notwithstanding any agreement to the contrary, to make any payment to or lodge any deposit with the landlord which he would not have been obliged to make or as the case may be lodge had he not exercised (or sought to exercise) the right to purchase:

Provided that this subsection shall not apply as regards the expenses of any court proceedings.”.

(2) In section 4 of the said Act of 1980—

- (a) in subsection (1), at the beginning, there shall be inserted the words " Subject to section 1(1 A) of this Act "; and
- (b) in subsection (3) the words " incurred in connection with the sale of the dwelling-house " shall cease to have effect.

### **54 Ranking of standard securities to secure discount**

In section 6(5) of the Tenants' Rights, Etc. (Scotland) Act 1980 (which provides for the ranking of a standard security to secure discount)—

- (a) in paragraph (a)—
  - (i) for the word " a " where it first appears there shall be substituted the word " any ";
  - (ii) after the word " loan " there shall be inserted the words “either—  
(i)”;  
and
  - (iii) for the word " and " where it first occurs there shall be substituted the words “; or  
(ii) for the improvement of the dwelling-house,  
and”;
- (b) in paragraph (b) for the word " further " there shall be substituted the word " other ".

**55 Power of Lands Tribunal in relation to certain failures by public sector landlord**

(1) In section 7 of the Tenants' Rights, Etc, (Scotland) Act 1980 (which among other things empowers the Lands Tribunal for Scotland to take steps to enable a tenant to exercise his right to purchase a dwelling-house in a case where the landlord has failed to comply with requirements of the Act)—

(a) in subsection (2)—

(i) in paragraph (a) after the word "sell" there shall be inserted the words " (even if only such offer to sell as is mentioned in paragraph (d) below) "; and

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

“, or

(d) where a landlord has served an offer to sell whose contents do not conform with the requirements of paragraphs (a) to (e) of section 2(2) of this Act (or where such contents were not obtained in accordance with the provisions specified in those paragraphs),”; and

(b) for subsection (3) there shall be substituted the following subsection—

“(3) Where a matter has been referred to the Lands Tribunal for Scotland under subsection (2) above the Tribunal shall consider whether in its opinion—

(a) any of paragraphs (a) to (c) of that subsection apply, and if it so finds it may—

(i) give any consent, exercise any discretion or do anything which the landlord may give, exercise or as the case may be do under or for the purposes of this Part of this Act; and

(ii) issue such notices and undertake such other steps as may be required to complete the procedure provided for in section 2 of this Act;

and any consent given, any discretion exercised or anything done under the foregoing provisions of this subsection shall have effect as if it had been duly given, exercised or as the case may be done by the landlord ; or

(b) paragraph (d) of that subsection applies, and if it so finds it may order the landlord to serve on the tenant an offer to sell, in proper form, under section 2(2) of this Act within such time (not exceeding two months) as it may specify.”.

(2) The amendments made by subsection (1) above and by paragraphs 39 and 40 of Schedule 3 to this Act shall have no effect as regards any case where, at the date of coming into operation of this section of this Act, the Lands Tribunal for Scotland has either—

(a) determined, after consideration under subsection (3) of the said section 7, that none of paragraphs (a) to (c) of subsection (2) of that section apply to that case ; or

(b) issued an offer to sell under the said subsection (3).

## **56 Maintenance of sewage treatment works and waterworks**

In section 20 of the Local Government, Planning and Land Act 1980 (which relates to the interpretation of provisions of that Act concerning direct labour organisations), after subsection (2) there shall be inserted the following subsection—

“(2A) Notwithstanding anything in subsection (1) above, and without prejudice to subsection (2) above, in the application of this Act to Scotland " construction or maintenance work " in relation to—

- (a) sewage treatment works (within the meaning of the Sewerage (Scotland) Act 1968); or
- (b) waterworks (within the meaning of the Water (Scotland) Act 1980),

does not include works of maintenance (within the meaning of the Local Authorities (Goods and Services) Act 1970) by a person employed wholly or mainly in connection with such treatment works or as the case may be waterworks.”.

## **57 Liability of water authorities etc. for damage caused by escapes of water onto agricultural or forestry land**

In section 10 of the Water (Scotland) Act 1980 (which among other things provides that compensation is to be made by a water authority to a person sustaining damage by reason of their exercise of certain statutory powers)—

- (a) after subsection (1) there shall be inserted the following subsection—

“(1A) The escape of water, however caused, onto agricultural land or forestry land from one of a water authority's or as the case may be water development board's communication pipes or mains shall for the purposes of subsection (1) above be taken to have been brought about by the exercise by them of powers under this Act.”; and

- (b) after subsection (4) there shall be inserted the following subsections—

“(5) Without prejudice to any right to compensation other than under subsection (1) above, in that subsection " person " does not, as regards compensation payable under that subsection by virtue of subsection (1A) above, include—

- (a) statutory undertakers as defined in section 275(1) of the Town and Country Planning (Scotland) Act 1972;
- (b) highway authorities as defined in section 50(1) of the Roads (Scotland) Act 1970;
- (c) bridge authorities or managers as defined in section 39(1) of the Public Utilities Street Works Act 1950;
- (d) street authorities or managers as defined in the said section 39(1); or
- (e) persons on whom a right to compensation under section 26 of the said Act of 1950 is conferred.

- (6) In subsection (1A) above, the expressions " agricultural land " and " forestry land " mean land (but not any building) used, respectively, for agriculture or for forestry which is so used for the purposes of a trade or business; and in the foregoing provisions of this subsection " agriculture " has the meaning assigned to it by section 86(3) of the Agriculture (Scotland) Act 1948 and "forestry" means the growing

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*Status: This is the original version (as it was originally enacted).*

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of woods and forests for the production of timber and other forest products and the growing of trees for planting in such woods and forests.”.

**58 Power of water authority to require separate service pipes in cases of interference with water supply**

In paragraph 7(5) of Schedule 3 to the Water (Scotland) Act 1980 (the which Schedule makes provision among other things as regards the laying of communication and supply pipes)—

- (a) the word " either " shall cease to have effect; and
- (b) at the end there shall be added the words—

“; or

- (c) the owner or occupier of any of the houses has interfered with, or allowed another person to interfere with, the existing service pipe or the stopcock fixed to that pipe and has thereby caused the supply of water to any of the houses to be interfered with; or
- (d) the authority have reasonable grounds to believe that such interference as is mentioned in (c) above is likely to take place.”.

**59 Exemption from charges for water for fire fighting**

After section 9 of the Water (Scotland) Act 1980 there shall be added the following section—

Without prejudice to any provision relating to domestic water rate but notwithstanding anything in section 9 or 49 of this Act, no charge may be made by a water authority in respect of—

- (a) water taken for the purposes of extinguishing fires or of testing apparatus installed, or equipment used, for extinguishing fires ; or
- (b) the availability of water for the said purposes:

Provided that nothing in this section shall prevent the making of charges in respect of work carried out at the request of or for the benefit of any person receiving a supply of water for the said purposes.”.

**60 Approved duties of councillors and allowances in respect thereof**

(1) Under the 1973 Act, members of local authorities who are councillors shall, in respect of the performance of approved duties, have the right to decide whether to receive attendance allowance or financial loss allowance ; and accordingly—

- (a) in subsection (1) of section 45 of that Act (the which subsection relates to entitlement to attendance allowance) after the word " shall " there shall be inserted the words " , (unless a notice under section 45A of this Act is effective in relation to him), " ; and
- (b) after the said section 45 there shall be inserted the following section—



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*Status: This is the original version (as it was originally enacted).*

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#### **“45A Right of councillor to opt for financial loss allowance.**

If a councillor gives notice in writing to the local authority of which he is a member that he wishes to receive financial loss allowance, he shall be entitled, subject to and in accordance with the provisions of any relevant regulations made under section 50 of this Act, to receive that allowance instead of any payment by way of attendance allowance to which he would otherwise be entitled.”.

- (2) In subsection (2) of section 49 of the 1973 Act (the which subsection relates to the interpretation of the expression " approved duty ")—
- (a) after the words " 45," there shall be inserted the words " 45A, ";
  - (b) in paragraph (a), the words ", or of any of its committees or sub-committees " shall cease to have effect; and
  - (c) after paragraph (a) there shall be inserted the following paragraph—
    - “(aa) attendance at a meeting of a committee, or sub-committee, of the body if such attendance is—
      - (i) as a member of;
      - (ii) at the invitation of; or
      - (iii) expressly authorised by,the committee or, as the case may be, sub-committee or is at the invitation of, or expressly authorised by, the body;”.

#### **61 Abolition of Amenity Committee**

The Amenity Committee appointed under subsection (2) of section 9 of the Hydro-Electric Development (Scotland) Act 1943 (a subsection which among other things provided that the Secretary of State was to appoint such a committee for the purpose of giving advice and assistance to him and to the Scottish Electricity Boards and which is re-enacted as subsection (2) of section 5 of the Electricity (Scotland) Act 1979) is hereby abolished.

#### **62 Abolition of Staff Commission for Scotland**

The Staff Commission for Scotland is hereby abolished; and accordingly, in the 1973 Act, section 218 (which relates to the establishment, functions, procedure and expenses of that Commission) shall cease to have effect.

#### **63 Abolition of Property Commission for Scotland**

The Property Commission for Scotland is hereby abolished; and accordingly, in the 1973 Act, in section 224 (which relates among other things to the establishment and functions of that Commission) subsections (1) to (4), and in subsection (6) the words " this section and in ", shall cease to have effect.

*Supplementary***64 Saving in respect of byelaws**

Notwithstanding the repeal by this Act of any provision, byelaws—

- (a) made by, under or by virtue of the provision ; and
- (b) in force immediately before the repeal,

shall, where or in so far as like byelaws could be made by, under or by virtue of a provision of this Act, remain in force until the end of 1986 or (if earlier) until expressly revoked.

**65 Consequential, transitional and supplementary provisions**

(1) The Secretary of State may by order make such incidental, consequential, transitional or supplementary provision as appears to him to be necessary or proper—

- (a) for the general or any particular purposes of this Act or in consequence of any of the provisions of, or for giving full effect to, this Act; or
- (b) in consequence of such of the provisions of any other Act passed in the same session as this Act as apply to any area or authority affected by this Act;

and nothing in any other provision of this Act shall be construed as prejudicing the generality of this subsection.

(2) Where powers or duties as regards a function are transferred by, under or by virtue of this Act from one body (in this section referred to as the first body) to another (so referred to as the second body)—

- (a) any agreement to which the first body is immediately before the transfer a party shall, in so far as it derives from or relates to those powers and duties, have effect as from the transfer as if the second body were a party to the agreement instead of the first body;
- (b) any legal, or other, proceedings to which the first body is a party and which are pending immediately before the transfer may, in so far as they derive from or relate to those powers and duties, be continued on or after the transfer (but may only be so continued) as if the second body instead of the first body were that party; and
- (c) any writings or actings of or with regard to the first body which although not writings or actings comprehended under paragraph (a) or (b) above have, immediately before the transfer, some legal effect shall, in so far as they derive from or relate to those powers and duties, have such effect as from the transfer as if they had been writings or actings of, or as the case may be with regard to, the second body:

Provided that the foregoing provisions of this subsection shall have no effect in respect of criminal, or delictual, liability of either body (or of such liability of their members or officers).

(3) Subsection (2) above may by order made by the Secretary of State be excluded, either wholly or to such extent as he may specify in the order, from applying in any particular case.

(4) Any order under subsection (1) or (3) above shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.

## **66 Amendments and repeals**

- (1) The enactments specified in Schedule 3 to this Act shall have effect subject to the amendments specified in that Schedule, being minor amendments or amendments consequential upon the provisions of this Act.
- (2) The enactments specified —
  - (a) in Part I of Schedule 4 to this Act (which include certain spent enactments); and
  - (b) in Part II of that Schedule (which relate to powers of entry),are hereby repealed to the extent specified in the third column of that Schedule.

## **67 Interpretation**

In this Act, unless the context otherwise requires—

"the 1972 Act" means the Town and Country Planning (Scotland) Act 1972 ;  
and

"the 1973 Act" means the Local Government (Scotland) Act 1973.

## **68 Expenses**

There shall be defrayed out of moneys provided by Parliament—

- (a) any administrative expenses incurred by any Government department in consequence of the provisions of this Act; and
- (b) any increase attributable to this Act in the sums payable out of moneys so provided under any other enactment.

## **69 Short title, commencement and extent**

- (1) This Act may be cited as the Local Government and Planning (Scotland) Act 1982.
- (2) Subject to section 55(2) of this Act, this Act (except this section) shall come into operation on such day as the Secretary of State may by order made by statutory instrument 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) This Act extends to Scotland only.