



# Local Government and Planning (Scotland) Act 1982

## 1982 CHAPTER 43

### 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<sup>M1</sup>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—

- (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.”

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

- C1** The text of s. 5(1), 6, 7, 9(2), 10–13, 20, 21, 22(a)–(c) 23, 31, 36–50, 56–59, 60(1)(a)(b)(2), 66, Sch. 1 Pt. II, Sch. 2 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

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*Changes to legislation: There are currently no known outstanding effects for the Local Government and Planning (Scotland) Act 1982, Part II. (See end of Document for details)*

### Marginal Citations

M1 1973 c. 65.

## 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—

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

- (a) advertising; and preparing and disseminating information ;

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- (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.”.

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

- C2** The text of s. 5(1), 6, 7, 9(2), 10–13, 20, 21, 22(a)–(c) 23, 31, 36–50, 56–59, 60(1)(a)(b)(2), 66, Sch. 1 Pt. II, Sch. 2 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

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

Every local authority [<sup>F1</sup>(a)] shall have power and shall be deemed always to have had power to enter into arrangements with . . . <sup>F2</sup> the Secretary of State under the provisions of the Employment and Training Act <sup>M2</sup>1973. [<sup>F3</sup>and

- (b) shall have power to take part in any arrangements made in pursuance of section 2(3) of the Enterprise and New Towns (Scotland) Act 1990 (which relates to arrangements made by Scottish Enterprise and by Highlands and Islands Enterprise for persons to train for employment etc.).]

*Status: Point in time view as at 01/02/1991.*

*Changes to legislation: There are currently no known outstanding effects for the Local Government and Planning (Scotland) Act 1982, Part II. (See end of Document for details)*

#### Textual Amendments

- F1** Words from “shall” where first occurring to “1973” become paragraph (a)(1.4.1991) by virtue of [Enterprise and New Towns \(Scotland\) Act 1990 \(c. 35, SIF 64\)](#), s. 38(1), **Sch. 4 para. 13**
- F2** Words repealed by virtue of [Employment Act 1989 \(c. 38, SIF 43:1\)](#), s. 29(4), **Sch. 7 Pt. I**
- F3** Word “and” and para. (b) inserted (1.4.1991) by [Enterprise and New Towns \(Scotland\) Act 1990 \(c. 35, SIF 64\)](#), s. 38(1), **Sch. 4 para. 13**

#### Marginal Citations

- M2** [1973 c.50\(43:1\)](#).

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

- (1) As regards the <sup>M3</sup>Local Government (Development and Finance) (Scotland) Act 1964 and the <sup>M4</sup>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 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 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.

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

- C3** The text of s. 5(1), 6, 7, 9(2), 10–13, 20, 21, 22(a)–(c) 23, 31, 36–50, 56–59, 60(1)(a)(b)(2), 66, Sch. 1 Pt. II, Sch. 2 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

#### Marginal Citations

- M3** [1964 c. 67](#).
- M4** [1967 c. 86](#).

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

In section 21 (1) of the <sup>M5</sup>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”.

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*Changes to legislation: There are currently no known outstanding effects for the Local Government and Planning (Scotland) Act 1982, Part II. (See end of Document for details)*

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

- C4** The text of s. 5(1), 6, 7, 9(2), 10–13, 20, 21, 22(a)–(c) 23, 31, 36–50, 56–59, 60(1)(a)(b)(2), 66, Sch. 1 Pt. II, Sch. 2 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

**Marginal Citations**

- M5** 1949 c. 97.

**11 Islands or district council’s functions in relation to tourism.**

- (1) In section 90 of the <sup>M6</sup>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) ” ; and
- (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—

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- (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.”.

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

**C5** The text of s. 5(1), 6, 7, 9(2), 10–13, 20, 21, 22(a)–(c) 23, 31, 36–50, 56–59, 60(1)(a)(b)(2), 66, Sch. 1 Pt. II, Sch. 2 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

**Marginal Citations**

**M6** 1973 c. 65.

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

In section 34(1) of the <sup>M7</sup>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”.

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

**C6** The text of s. 5(1), 6, 7, 9(2), 10–13, 20, 21, 22(a)–(c) 23, 31, 36–50, 56–59, 60(1)(a)(b)(2), 66, Sch. 1 Pt. II, Sch. 2 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

**Marginal Citations**

**M7** 1968 c. 73

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

- (1) In section 24 of <sup>M8</sup>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—

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- (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 <sup>M9</sup>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.”.

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

**C7** The text of s. 5(1), 6, 7, 9(2), 10–13, 20, 21, 22(a)–(c) 23, 31, 36–50, 56–59, 60(1)(a)(b)(2), 66, Sch. 1 Pt. II, Sch. 2 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

**Marginal Citations**

**M8** 1960 c. 62.

**M9** 1973 c. 65.

**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 <sup>M10</sup>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.

**Marginal Citations**

**M10** 1975 c. 23.

**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.

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- (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;
  - (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—



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- (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 <sup>M11</sup>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.

#### Marginal Citations

M11 1964 c. 40.

### **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

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- (b) as regards the conduct of persons using, any such facility in the area of the council as is mentioned in section 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 [<sup>F4</sup>level 2 on the standard scale];
  - (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 [<sup>F4</sup>level 2 on the standard scale], 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.

#### Textual Amendments

**F4** Words substituted by virtue of [Criminal Procedure \(Scotland\) Act 1975 \(c. 21, SIF 39:1\)](#), s. 289G

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

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

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- (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**

In section 154 of the <sup>M12</sup>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.”.

**Marginal Citations**

M12 1973 c. 65.

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

In the <sup>M13</sup>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

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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 co-operation 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 ”.

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

- C8** The text of s. 5(1), 6, 7, 9(2), 10–13, 20, 21, 22(a)–(c) 23, 31, 36–50, 56–59, 60(1)(a)(b)(2), 66, Sch. 1 Pt. II, Sch. 2 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

#### **Marginal Citations**

- M13** 1970 c. 40.

## **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 <sup>M14</sup>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 “a regional,” there shall be substituted the word “and”;
- (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 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 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, ”

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

- C9** The text of s. 5(1), 6, 7, 9(2), 10–13, 20, 21, 22(a)–(c) 23, 31, 36–50, 56–59, 60(1)(a)(b)(2), 66, Sch. 1 Pt. II, Sch. 2 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

**Marginal Citations**

- M14** 1956 c.30.

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

In section 55 of the <sup>M15</sup>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.

*Status: Point in time view as at 01/02/1991.*

*Changes to legislation: There are currently no known outstanding effects for the Local Government and Planning (Scotland) Act 1982, Part II. (See end of Document for details)*

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

**C10** The text of s. 5(1), 6, 7, 9(2), 10–13, 20, 21, 22(a)–(c) 23, 31, 36–50, 56–59, 60(1)(a)(b)(2), 66, Sch. 1 Pt. II, Sch. 2 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

#### Marginal Citations

**M15** 1973 c. 65.

### 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 [<sup>F5</sup>211(1)(b) of the Housing (Scotland) Act 1987] (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 <sup>M16</sup>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.

#### Textual Amendments

**F5** Words substituted by Housing (Scotland) Act 1987 (c. 26, SIF 61), ss. 335, 339(2), **Sch. 23 para. 27**

#### Marginal Citations

**M16** 1978 c. 49.

### 25 Islands or district council’s functions in relation to street cleansing.

- [<sup>F6</sup>(1) It shall be the duty of each islands and district council to undertake the cleansing of the [<sup>F7</sup>roads] 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.
- [<sup>F8</sup>(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

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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 [<sup>F9</sup>road]; and in subsection (1) above and in the foregoing provisions of this subsection [<sup>F10</sup>“road” means any public road other than a trunk road or special road (“public road”, “trunk road” and “special road” having the same meaning as in the Roads (Scotland) Act 1984).]

[<sup>F8</sup>(3) In subsection (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 and “relevant land” means any land, in the open air, to which members of the public have access and which is not comprehended in a public road within the meaning of the Roads (Scotland) Act 1984.]

#### Textual Amendments

**F6** S. 25(1) repealed (*prosp.*) by Environmental Protection Act 1990 (c. 43, SIF 46:4), s. 162(2), **Sch. 16 Pt. IV**

**F7** Word substituted by Roads (Scotland) Act 1984 (c. 54, SIF 108), s. 156(1), **Sch. 9 para. 86(2)(a)**

**F8** S. 25(3) beginning “In subsection (2)” substituted (*prosp.*) for s. 25(3) beginning “In subsections (1) and (2)” by Environmental Protection Act 1990 (c. 43, SIF 46:4), s. 162(1), 164(3) Sch. 15 para. 20

**F9** Word substituted by Roads (Scotland) Act 1984 (c. 54, SIF 108), s. 156(1), **Sch. 9 para. 87(2)(b)(i)**

**F10** Definition substituted by Roads (Scotland) Act 1984 (c. 54, SIF 108), s. 156(1), **Sch. 9 para. 86(2)(b)(ii)**

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

**C11** S. 25(3) applied by Local Government Act 1988 (c. 9, SIF 81:1, 2), s. 2(1)(g), Sch. 1 para. 3

## 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

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- (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 [<sup>F11</sup>level 2 on the standard scale].
- (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 bylaw made under subsection (1)(c) above.
- (4) Without prejudice to section 83(3A) of the <sup>M17</sup>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.

#### Textual Amendments

**F11** Words substituted by virtue of [Criminal Procedure \(Scotland\) Act 1975 \(c. 21, SIF 39:1\), s. 289G](#)

#### Marginal Citations

**M17** 1973 c. 65.

## 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.



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- (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, [<sup>F12</sup>an islands council or, with the consent of the roads authority, a district council] 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.

[<sup>F13</sup>(2) In subsection (1) above, “footway” and “roads authority” have the same meanings as in the Roads (Scotland) Act 1984.]

#### Textual Amendments

**F12** Words substituted by [Roads \(Scotland\) Act 1984 \(c. 54, SIF 108\)](#), s. 156(1), [Sch. 9 para. 86\(3\)](#)

**F13** [S. 30\(2\)](#) substituted by [Roads \(Scotland\) Act 1984 \(c. 54, SIF 108\)](#), s. 156(1), [Sch. 9 para. 86\(3\)](#)

### 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 <sup>M18</sup>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”.

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

**C12** The text of s. 5(1), 6, 7, 9(2), 10–13, 20, 21, 22(a)–(c) 23, 31, 36–50, 56–59, 60(1)(a)(b)(2), 66, Sch. 1 Pt. II, Sch. 2 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

#### Marginal Citations

**M18** 1923 c 18.

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

For section 56(2) of the <sup>M19</sup>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

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- (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.”.

#### Marginal Citations

M19 1973 c. 65.

### 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—
- 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
  - 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—
- any association of local authorities which appears to him to represent the interests of local authorities in Scotland; and
  - 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.

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- (6) In the foregoing provisions of this section “local authority” includes a river purification board established under section 135 of the <sup>M20</sup>1973 Act.

**Marginal Citations**

M20 1973 c. 65.

**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

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- (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 <sup>M21</sup>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.

#### Marginal Citations

M21 1973 c. 65.

### 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.

**Status:**

Point in time view as at 01/02/1991.

**Changes to legislation:**

There are currently no known outstanding effects for the Local Government and Planning (Scotland) Act 1982, Part II.