



Local Government and Housing Act 1989

1989 CHAPTER 42

PART IX

MISCELLANEOUS AND GENERAL

Miscellaneous local government provisions

159 Prevention of continuance or recurrence of default of local authority: Scotland.

(1) Section 211 of the ^{M1}Local Government (Scotland) Act 1973 (provision for default of local authority) shall be amended in accordance with this section.

(2) After subsection (2) there shall be inserted the following subsections—

“(2A) If the Secretary of State or appropriate Minister—

- (a) is about to make an order under subsection (2) above; and
- (b) is satisfied that the failure to which the order relates has continued or recurred,

he may, in that order and without any local inquiry, declare the authority to be in default in respect of the continuance or recurrence of the failure and direct them for the purpose of remedying the default to take such steps and within such time or times as may be specified in the order.

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

(3) After subsection (3) there shall be inserted the following subsection—

“(3A) If—

- (a) a local authority have been notified under subsection (2B) above; and

Changes to legislation: Local Government and Housing Act 1989, Section 159 is up to date with all changes known to be in force on or before 22 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) [View outstanding changes](#)

- (b) there has been any such continuance or recurrence as is mentioned in that subsection of the failure to which the notification relates,

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

Marginal Citations

M1 1973 c. 65.

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

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

- s. 65(2)(b)(ii) inserted by [2004 c. 23 Sch. 2 para. 11](#) (Pt. IV repealed (18.11.2003 for E. for the repeal of ss. 45, 53, 27.11.2003 for W. for the purpose of and in relation to financial years beginning on or after 1st April 2004, and 1.4.2004 for E. in so far as not already in force) by Local Government Act 2003 (c. 26), s. 128(6), Sch. 7 para. 29; S.I. 2003/2938, arts. 3(h), 7(b) (with art. 8, Sch.); S.I. 2003/3034, art. 2, Sch. 1 Pt. I (with Sch. 2 para. 2))
- s. 76A76B inserted by [2014 c. 29 s. 24\(2\)](#)
- s. 87(1A) inserted by [2014 c. 29 s. 24\(5\)](#)