



# Local Government etc. (Scotland) Act 1994

## 1994 CHAPTER 39

### PART V

#### GENERAL AND SUPPLEMENTARY

##### *General*

#### **177 Parliamentary disqualification**

- (1) Schedule 1 to the House of Commons Disqualification Act 1975 shall be amended as mentioned in subsections (2) and (3) below.
- (2) In Part II (bodies of which all members are disqualified for membership of the House of Commons), there shall be inserted at the appropriate places the following entries—
  - “The East of Scotland Water Authority.”;
  - “The North of Scotland Water Authority.”;
  - “The Scottish Children’s Reporter Administration.”;
  - “The Scottish Water and Sewerage Customers Council or any committee established by that council under paragraph 10(1) of Schedule 9 to the Local Government etc. (Scotland) Act 1994.”; and
  - “The West of Scotland Water Authority.”.
- (3) In Part III (other disqualifying offices) there shall be inserted at the appropriate places the following entries—
  - “Any member of the staff commission established by virtue of section 12 of the Local Government etc. (Scotland) Act 1994.”;
  - “Any member of a residuary body established by virtue of section 18 of the Local Government etc. (Scotland) Act 1994 who is in receipt of remuneration.”; and
  - “Any member of the property commission established by virtue of section 19 of the Local Government etc. (Scotland) Act 1994.”.

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## 178 Financial provisions

- (1) There shall be paid out of money provided by Parliament—
  - (a) any expenses of the Secretary of State incurred in consequence of the provisions (other than section 84(5)) of this Act; and
  - (b) any increase attributable to this Act in the sums payable out of money so provided under any other enactment.
- (2) There shall be paid out of the National Loans Fund any sums issued to the Secretary of State under section 84(5) of this Act.
- (3) There shall be paid into—
  - (a) the National Loans Fund any sums paid to the Secretary of State under section 84(5) of this Act; and
  - (b) the Consolidated Fund any sums paid to the Secretary of State in consequence of any other provision of this Act.

## 179 Savings

- (1) The repeal by this Act of—
  - (a) sections 65, 66 and 67;
  - (b) the words from “; and section 65” to the end in section 76H(8); and
  - (c) the words “, save in sections 64 to 67,” in the definition of “owner” in section 109(1),
 of the 1980 Act, shall not affect the operation of the said sections 65, 66 and 67 as respects—
  - (i) any charging order made before 1st April 1996 under subsection (1) or (3) of section 65 (including any charging order so made by virtue of the said section 76H(8));
  - (ii) any order made before that date under subsection (2) of section 66; or
  - (iii) any right conferred by those sections to recover expenditure provided that the expenditure was incurred before that date.
- (2) The repeal by this Act of the said section 65 shall not affect that section’s application, under subsection (4) of section 75 of the Agricultural Holdings (Scotland) Act 1991, to such charging orders as are mentioned in subsection (2) or (3) of the said section 75.
- (3) The repeal by this Act—
  - (a) of section 47 of the 1968 Act shall not affect the operation of that section as respects—
    - (i) any charging order made before 1st April 1996 under subsection (1) of that section; or
    - (ii) any right conferred by that section to recover expenditure provided that the expenditure was incurred before that date;
  - (b) of the said sections 65, 66 and 67 shall not affect those sections’ application, under subsection (2) or (3) of the said section 47, to such charging orders as are mentioned in sub-paragraph (i) of paragraph (a) above or, as the case may be, for the purpose of the right of recovery mentioned in sub-paragraph (ii) of that paragraph.
- (4) Without prejudice to subsection (4) of section 72 of the 1980 Act (certain byelaws to cease to have effect at expiration of a specific period unless extended), or to that

subsection as it applies by virtue of section 63(10) of the Countryside (Scotland) Act 1967 (byelaws as respects recreational use of waterway or land), a byelaw made by the Board or by any other transferor as water authority, or having effect, immediately before the transfer date, as if so made by virtue of section 73(3) of the 1980 Act (power of Secretary of State to require making of byelaws), shall on and after that date have effect, though only within the area in which it had effect immediately before that date, as if made by the transferee as water authority, with any reference in the byelaws to the transferor being construed, in so far as the context admits, as a reference to the transferee.

- (5) In subsection (4) above, “transferor” and “transferee” mean the transferor and transferee in a transfer scheme; and for the purposes of that subsection the transferee where the transferor is the Board shall be taken to be the East of Scotland Water Authority only.
- (6) Section 125 of this Act applies for the interpretation of subsections (1) to (5) above as that section applies for the interpretation of Part II of this Act.

### *Supplementary*

#### **180 Minor and consequential amendments and repeals**

- (1) Schedule 13 to this Act, which contains minor amendments and amendments consequential upon the provisions of this Act, shall have effect.
- (2) The enactments mentioned in Schedule 14 to this Act (which include spent provisions) are hereby repealed to the extent specified in the third column of that Schedule.

#### **181 Consequential and supplementary provisions**

- (1) The Secretary of State may at any time, whether before or after 1st April 1996, by order make such incidental, consequential, transitional or supplementary provision as may appear to him to be necessary or expedient—
  - (a) for the general or any particular purposes of this Act or in consequence of any of the provisions thereof or for giving full effect thereto; or
  - (b) in consequence of such of the provisions of this Act or 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) An order under this section may—
  - (a) make provision, in the case of any body, person, funds or matter affected by this Act, for the transition from the provisions of any enactment to the provisions of this Act, but nothing in such an order shall be inconsistent with any provision of this Act;
  - (b) in relation to the period prior to 1st April 1996, and subject to such modification as the Secretary of State thinks necessary or expedient, apply to the new authorities any enactment relating to a local authority in Scotland;
  - (c) apply, with or without modifications, or amend, repeal or revoke (with or without savings) any provision of an Act passed before this Act or in the same Session, or an instrument made under such an Act before 1st April 1996; or

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- (d) make savings, or additional savings from the effect of any repeal made by this Act.
- (3) Subject to subsection (6) below, anything done or treated by virtue of any enactments as having been done by or to or in relation to an existing local authority in connection with the discharge of any of their functions shall, as from 1st April 1996, be treated as having been done by, to or in relation to the new authority by whom those functions become exercisable on and after that date by virtue of this Act; and any such thing shall as from that date have effect as if any reference therein to a specified existing local authority by whom those functions were exercisable before that date were a reference to the new authority by whom those functions become exercisable.
- (4) Without prejudice to the generality of subsection (3) above, the things to which it refers include—
- (a) any agreement, instrument, decision, designation, determination, declaration or order made or treated as having been made by an existing local authority;
  - (b) any notice or direction given or treated as given by or to such an authority;
  - (c) any licence, certificate, permission, consent, approval, refusal, exemption, dispensation or relaxation granted or treated as granted by or to such an authority;
  - (d) any application, request, proposal or objection made or treated as made by or to such an authority;
  - (e) any fee paid to or by such an authority;
  - (f) any condition or requirement imposed or treated as imposed by or on such an authority;
  - (g) any proceedings instituted by or against any such authority; or
  - (h) any appeal allowed by or in favour of or against such an authority.
- (5) If there is any doubt as to the identity of the new authority to whom any particular functions are so transferred, that authority shall be taken to be such as may be specified in a direction given by the Secretary of State.
- (6) Subsection (3) above is without prejudice to any express provision made by, or by any instrument or transfer scheme made under, this Act, but has effect subject to any provision to the contrary so made and in particular may be excluded from applying, either wholly or to any specified extent, in any particular case by an order made by the Secretary of State.
- (7) Section 25 of the 1973 Act (transitional agreements as to property and finance) shall apply for the purposes of Part I and V of this Act as if any reference to an order under Part II of that Act included a reference to any provision of Part I of this Act or to any provision of any instrument made under Part I or this Part of this Act, but any agreement made by virtue of this subsection may only be made by new authorities and after 31st March 1996.
- (8) An order under this section shall be made by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament.
- (9) In this section—
- “existing local authority” includes a joint committee and a joint board and a reporter appointed under section 36(1) of the Social Work (Scotland) Act 1968;

“joint committee” and “joint board” have the meanings given by section 235(1) of the 1973 Act; and

“new authority” means—

- (a) any of the authorities constituted under section 2 of this Act;
- (b) a joint committee and a joint board;
- (c) a residuary body;
- (d) the Strathclyde Passenger Transport Authority;
- (e) a new water and sewerage authority within the meaning of Part II of this Act;
- (f) the Principal Reporter; and
- (g) the Scottish Children’s Reporter Administration.

## **182 Further transitional provisions**

(1) Unit 1st April 1996—

- (a) section 70 of the 1973 Act (acquisition of land by agreement) shall have effect as if, in subsection (1), after paragraph (b) there were inserted “, or
  - (c) there being provided by some person other than themselves a system, to which the public shall have access, of drains, sewers or sewage treatment works,”;
- (b) section 71 of the 1973 Act (acquisition of land compulsorily) shall have effect as if, in subsection (1), after “enactment” there were inserted “or of there being provided by some person other than themselves a system, to which the public shall have access, of drains, sewers or sewage treatment works”; and
- (c) section 15 of the Water (Scotland) Act 1980 (power to acquire land) shall have effect as if, at the end of each of subsections (1) and (3), there were added “or for the purpose of there being provided by some person other than themselves a supply of water to the public”.

(2) If the Secretary of State provides, by order under section 184(2) of this Act, that any provision of Part II of (or of Schedule 13 to) this Act which—

- (a) amends section 1, 6, 21(1), 22, 23 or 48 of the Sewerage (Scotland) Act 1968 or section 32 of the Control of Pollution Act 1974; or
- (b) adds to the said Act of 1968 a new section 3A or 16A or to section 20 of that Act a new subsection (5),

shall come into force before 1st April 1996, he may provide in the order that the section amended, or as the case may be the section or subsection added, shall until that date apply as if modified in such manner as he shall specify in the order; the modifications being such as appear to him to be requisite having regard to the fact that some other provision of that Part (or that Schedule) is not for the time being in effect.

## **183 Interpretation and amendment of statutory references**

(1) In this Act, unless the context otherwise requires—

“residuary body” shall be construed in accordance with section 18 of this Act;

“the Valuation Acts” means the Lands Valuation (Scotland) Act 1854, the Acts amending that Act and any other enactment relating to valuation;

“the 1973 Act” means the Local Government (Scotland) Act 1973; and

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“the 1975 Act” means the Local Government (Scotland) Act 1975.

- (2) Subject to section 59 of this Act and to any particular amendment of any enactment made by or under this Act—
- (a) any reference in any enactment to a local authority within the meaning of the 1973 Act (whether expressed as a reference to such an authority, or to a regional, islands or district council, or otherwise); or
  - (b) any reference in any enactment to a local authority within the meaning of the Local Government (Scotland) Act 1947 (“the 1947 Act”) which, by virtue of paragraph 1(2) of Schedule 27 to the 1973 Act, falls to be construed as a reference to a local authority within the meaning of the 1973 Act,
- shall be construed as a reference to a council constituted under section 2 of this Act.
- (3) For the purpose of translating any reference, however expressed, in any enactment to a local authority within the meaning of either the 1973 Act or the 1947 Act to a reference to a council constituted under section 2 of this Act, the Secretary of State may by order made by statutory instrument make such amendments to any such enactment as he considers necessary or expedient.
- (4) Subject to any particular amendment of any enactment made by this Act, any reference in any enactment to—
- (a) the director of education shall in relation to any purpose be construed as a reference to the officer appointed by a local authority for that purpose;
  - (b) the director of social work shall be construed as a reference to the chief social work officer.
- (5) Any reference in any enactment, other than the Social Work (Scotland) Act 1968 or the Criminal Procedure (Scotland) Act 1975 (in respect of which Acts particular provision is made in Schedule 13 to this Act), to a reporter appointed under section 36(1) of the former Act shall be construed as a reference to the Principal Reporter.
- (6) In this section “enactment” means any enactment or instrument made under an enactment, whether passed or made before or after the coming into force of this section; but does not include this Act or any instrument made under this Act.

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

- (1) This Act may be cited as the Local Government etc. (Scotland) Act 1994.
- (2) This Act, except section 163, shall come into force on such day as the Secretary of State may by order made by statutory instrument appoint, and different days may be appointed for different purposes.
- (3) An order under subsection (2) above may contain such transitional provisions and savings as appear to the Secretary of State to be necessary or expedient in connection with the provisions brought into force.
- (4) This Act shall extend to Scotland only.