



# Local Government in Scotland Act 2003

## 2003 asp 1

### PART 9

#### GENERAL

#### 57 Power to modify enactments

- (1) The Scottish Ministers may, by order, amend, repeal, revoke or disapply any enactment to which this section applies.
- (2) This section applies to—
  - (a) any enactment which the Scottish Ministers consider prevents local authorities from discharging their duty under section 1(1) [<sup>F1</sup>or 13(1)] above or hinders them in that discharge;
  - <sup>F2</sup>(b) .....
  - (c) any enactment which the Scottish Ministers consider prevents local authorities from exercising their power under section 20(1) above.
- (3) The power under subsection (1) above may be exercised in relation to—
  - (a) all authorities, bodies or other persons as respects which and whom it may be exercised;
  - (b) any class or classes of such authorities, bodies or persons; or
  - (c) a particular such authority, body or person.
- (4) The power under subsection (1) above includes power to amend or disapply an enactment for a specified period.
- (5) An order under this section shall be made by statutory instrument.
- (6) No such order shall be made unless the statutory instrument has been laid in draft before and approved by resolution of the Scottish Parliament.

#### Textual Amendments

- F1** Words in s. 57(2)(a) substituted (20.12.2016) by [Community Empowerment \(Scotland\) Act 2015 \(asp 6\)](#), s. 142(1), [sch. 4 para. 7](#); S.S.I. 2016/410, art. 2(a)

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**F2** S. 57(2)(b) repealed (20.12.2016) by [Community Empowerment \(Scotland\) Act 2015 \(asp 6\)](#), s. 142(1), [sch. 5](#); S.S.I. 2016/410, art. 2(b)

## **58 Ancillary provision**

- (1) The Scottish Ministers may by order made by statutory instrument make such incidental, supplemental, consequential, transitional, transitory or saving provision as they consider necessary or expedient for the purposes or in consequence of this Act.
- (2) Such an order may modify any enactment, instrument or document.
- (3) A statutory instrument containing such an order shall, subject to subsection (4) below, be subject to annulment in pursuance of a resolution of the Scottish Parliament.
- (4) No such order containing provisions which add to, replace or omit any part of the text of an Act is to be made unless a draft of the instrument containing it has been approved by resolution of the Scottish Parliament.
- (5) Any power of the Scottish Ministers to make orders or regulations under this Act includes power to make such incidental, supplemental, consequential, transitional, transitory or saving provision as the Scottish Ministers think necessary or expedient.

## **59 Equal opportunities**

- (1) The Scottish Ministers, local authorities, the authorities, bodies, office holders and other persons mentioned in section 16(1) of this Act and any other person discharging functions under this Act shall discharge those functions in a manner which encourages equal opportunities and, in particular, the observance of the equal opportunity requirements.
- (2) The duty imposed by subsection (1) above on a local authority is, in relation to its functions under section 1 above, additional to that set out in subsection (1) of that section.
- (3) In subsection (1) above, “equal opportunities” and “equal opportunity requirements” have the same meanings as in Section L2 of Part II of Schedule 5 to the Scotland Act 1998 (c. 46).

## **60 Repeals and consequential amendments**

- (1) The following enactments are repealed—
  - (a) in section 83 (general power of local authorities to incur expenditure) of the 1973 Act, subsections (1), (2), (2C), (2D) and (4) to (7) and, in subsection (3), the words “subject as aforesaid”;
  - (b) section 94 (capital expenses of local authorities) of that Act;
  - (c) section 122A(duty of local authorities to use resources efficiently) of that Act;
  - (d) sections 171A, 171B and 171C(promotion by local authorities of economic development of its area) of that Act;
  - (e) Part III (direct labour organisations) of the Local Government, Planning and Land Act 1980 (c. 65);
  - (f) Part I (competition in certain local authority activities) and sections 32 (direct labour organisations) and 33 (local authority companies) of and Schedule 6 to the Local Government Act 1988 (c. 9);

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- (g) section 31 (National Code of Local Government Conduct) of the Local Government and Housing Act 1989 (c. 42);
  - (h) sections 1A (permitted methods of publishing information about performance) and 8 to 11 (competition and competitive tendering) of and Schedule 1 to the Local Government Act 1992 (c. 19);
  - (i) in section 188 (acquisition of land by planning authority by agreement) of the Town and Country Planning (Scotland) Act 1997 (c. 8), subsection (3);
  - (j) in section 189 (compulsory acquisition of land by local authority) of that Act, subsection (8).
- (2) In section 9A(4)(b) of the Transport Act 1968 (c. 73) (application of sections 89 to 92 of the Transport Act 1985 to Passenger Transport Executives), for the words “sections 89 to” there is substituted “section”.
- (3) The Transport Act 1985 (c. 67) is amended as follows—
- (a) in section 63(5)(b) (limitations on agreements for service subsidies), for the words “sections 89 to” there is substituted “section”;
  - (b) in section 88(1) (limitations on agreements for service subsidies), for the words “sections 89 to” there is substituted “section”; and
  - (c) sections 89 to 91 (obligation on local authorities to invite tenders for subsidised transport services) are repealed.

#### Commencement Information

- II** S. 60 wholly in force at 1.4.2004; s. 60 not in force at Royal Assent see s. 62(2); s. 60(1)(a)(c)-(f)(h)-(j)(2)(3) in force at 1.4.2003 by S.S.I. 2003/134, art. 2(1), Sch. and s. 60(1)(g) in force at 1.5.2003 by art. 2(2) of that S.S.I.; s. 60(1)(b) in force at 1.4.2004 by S.S.I. 2004/28, art. 2(2)

## 61 Definitions

In this Act—

- <sup>F3</sup>(a) .....
- <sup>F4</sup>(b) .....
- (c) “local authority” means—
  - (i) in Part 1, a council constituted under section 2 of the Local Government etc. (Scotland) Act 1994 (c. 39) and the Strathclyde Passenger Transport Authority;
  - (ii) in Parts 2, 5 and 8 (other than sections 51 and 52 above) and section 25 above, a council constituted under section 2 of the Local Government etc. (Scotland) Act 1994 (c. 39);
  - (iii) in Part 3 <sup>F5</sup>. . . , a council constituted under section 2 of the Local Government etc. (Scotland) Act 1994 (c. 39) <sup>F6</sup>... <sup>F7</sup>...;
  - (iv) in Parts 4 (other than section 25 above) and 7, a council constituted under section 2 of the Local Government etc. (Scotland) Act 1994 (c. 39) <sup>F6</sup>..., a joint police board [<sup>F8</sup>, a Transport Partnership created under the Transport (Scotland) Act 2005 (asp 12)] and the Strathclyde Passenger Transport Authority;
- <sup>F9</sup>(iva) in sections 51 and 52 above, a council constituted under section 2 of the Local Government etc. (Scotland) Act 1994 (c. 39) <sup>F6</sup>..., a joint

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police board and a Transport Partnership created under the Transport (Scotland) Act 2005 (asp 12); ]

- (v) in each of those provisions of this Part which refer to provisions of other Parts, the same meaning as it has in those respective provisions of those other Parts;
- (d) the “1973 Act” means the Local Government (Scotland) Act 1973 (c. 65).

#### Textual Amendments

- F3** S. 61(a) repealed (1.4.2013) by [Police and Fire Reform \(Scotland\) Act 2012 \(asp 8\)](#), s. 129(2), **Sch. 8 Pt. 2**; [S.S.I. 2013/51, art. 2](#) (with transitional provisions and savings in [S.S.I. 2013/121](#))
- F4** S. 61(b) repealed (1.4.2013) by [Police and Fire Reform \(Scotland\) Act 2012 \(asp 8\)](#), s. 129(2), **Sch. 8 Pt. 1**; [S.S.I. 2013/51, art. 2](#) (with transitional provisions and savings in [S.S.I. 2013/121](#))
- F5** Words in s. 61(c)(iii) repealed (10.10.2005) by [Transport \(Scotland\) Act 2005 \(asp 12\)](#), ss. 4, 54(2), **sch. 1 para. 16(5)(a)**; [S.S.I. 2005/454, art. 2](#), Sch. 2
- F6** Words in s. 61(c) repealed (1.4.2013) by [Police and Fire Reform \(Scotland\) Act 2012 \(asp 8\)](#), s. 129(2), **Sch. 8 Pt. 2**; [S.S.I. 2013/51, art. 2](#) (with transitional provisions and savings in [S.S.I. 2013/121](#))
- F7** Words in s. 61(c)(iii) repealed (1.4.2013) by [Police and Fire Reform \(Scotland\) Act 2012 \(asp 8\)](#), s. 129(2), **Sch. 8 Pt. 1**; [S.S.I. 2013/51, art. 2](#) (with transitional provisions and savings in [S.S.I. 2013/121](#))
- F8** Words in s. 61(c)(iv) inserted (10.10.2005) by [Transport \(Scotland\) Act 2005 \(asp 12\)](#), ss. 4, 54(2), **sch. 1 para. 15(5)**; [S.S.I. 2005/454, art. 2](#), Sch. 2
- F9** S. 61(c)(iva) inserted (10.10.2005) by [Transport \(Scotland\) Act 2005 \(asp 12\)](#), ss. 4, 54(2), **sch. 1 para. 16(5)(b)**; [S.S.I. 2005/454, art. 2](#), Sch. 2

## 62 Short title and commencement

- (1) This Act may be cited as the Local Government in Scotland Act 2003.
- (2) This Act (except this section, section 42(1) and (2) and section 50 above) comes into force on such day as the Scottish Ministers may by order made by statutory instrument appoint; and different days may be so appointed for different purposes.
- (3) Such an order may include such transitional, transitory or saving provision in connection with the coming into force of the provisions brought into force as the Scottish Ministers think fit.

#### Subordinate Legislation Made

- P1** S. 62(2) power partly exercised; days appointed for specified provisions and purposes as follows:  
 1.4.2003 by [{S.S.I. 2003/134}](#), art. 2;  
 1.4.2004 by [{S.S.I. 2004/28}](#), art. 2;  
 20.3.2006 and 3.7.2006 by [{S.S.I. 2006/89}](#), art. 2;  
 8.8.2009 by [{S.S.I. 2009/275}](#), art. 2;  
 20.4.2010 and 1.6.2010 by [{S.S.I. 2010/119}](#), arts. 2, 3

**Changes to legislation:**

There are currently no known outstanding effects for the Local Government in Scotland Act 2003, Part 9.