



New Towns (Scotland) Act 1968

1968 CHAPTER 16

Transfer of property and undertakings of development corporations, and their dissolution

35 Power of development corporation to transfer their undertakings.

- (1) Subject to the provisions of this section, a development corporation may, by an agreement made with any local authority or any statutory undertakers and approved by the Secretary of State with the concurrence of the Treasury—
- (a) transfer to that local authority any part of the undertaking of the corporation, or
 - (b) transfer to those statutory undertakers any part of the undertaking of the corporation which consists of a statutory undertaking,
- upon such terms as may be prescribed by the agreement.

The foregoing provision is without prejudice to the powers of development corporations under this Act to dispose of any of their property, including any trade or business carried on by them.

- (2) Before approving an agreement under this section the Secretary of State shall consult with the [^{F1}local authority in whose area] the whole or any part of the area of the new town is situated, except where the agreement is made with that [^{F2}local authority].
- (3) Before approving an agreement under this section for the transfer of a statutory undertaking, the Secretary of State shall publish in the Edinburgh Gazette, and in one or more newspapers circulating in the area in which the new town is situated, a notice stating that the agreement has been submitted for approval, and describing the general effect of the agreement.
- (4) If, within 28 days from the publication of the notice in the Edinburgh Gazette in accordance with subsection (3) above, any objection to the agreement is made by any statutory undertakers who, within the area in which the new town is situated or any area adjacent thereto, are carrying on, or are authorised to carry on, a statutory undertaking of a character similar to the statutory undertaking proposed to be transferred by the agreement, subsection (1) above shall apply in relation to the agreement as if for the reference to the Secretary of State there were substituted a reference to the Secretary of State and the appropriate Minister.

Status: Point in time view as at 22/04/2011.

Changes to legislation: There are currently no known outstanding effects for the New Towns (Scotland) Act 1968, Cross Heading: Transfer of property and undertakings of development corporations, and their dissolution. (See end of Document for details)

- (5) If the Secretary of State is satisfied that it is expedient, having regard to any agreement made or proposed to be made under this section, that the liability of the development corporation in respect of advances made to them under the following provisions of this Act should be reduced, he may, by an order made with the consent of the Treasury, reduce that liability to such extent as may be specified in the order.

Section 46(6) of this Act applies to orders under this subsection.

- (6) The payment of any sums payable by a local authority for the purposes of an agreement under this section shall be a purpose for which that authority may borrow money.

Textual Amendments

- F1** Words in s. 35(2) substituted (1.4.1996) by virtue of 1994 c. 39, s. 180(1), **Sch. 13 para. 73(3)(a)**; S.I. 1996/323, **art. 4(1)(c)**
- F2** Words in s. 35(2) substituted (1.4.1996) by 1994 c. 39, s. 180(1), **Sch. 13 para. 73(3)(b)**; S.I. 1996/323, **art. 4(1)(c)**

[^{F3}36] **Winding up of development corporation.**

- (1) Where the Secretary of State is satisfied that the purposes for which a development corporation were established under this Act have been substantially achieved he may by order (a “winding up order”) provide for the winding up of the corporation.
- (2) Before making a winding up order the Secretary of State shall consult—
- the development corporation to which the order will relate,
 - the [^{F4}local authority in whose area]any part of the new town is situated, and
 - such other person or body as he thinks appropriate.
- (3) A winding up order shall name the day on which the winding up of the corporation is to commence and the day by which it is to be completed and may—
- stipulate a timetable for the winding up,
 - require the corporation to make interim reports to the Secretary of State,
 - require the corporation to comply with any directions made by the Secretary of State under section 36C of this Act,
 - impose such duties, or confer such additional powers, in relation to the winding up as the Secretary of State thinks appropriate,
 - revoke any order relating to the development corporation,
 - contain such incidental, consequential, supplementary, transitional or ancillary provisions (including provision modifying the effect of any enactment as it relates to the corporation) as the Secretary of State thinks necessary or expedient.
- (4) The Secretary of State may, after such consultation as is mentioned in subsection (2) above, by order vary any of the terms of a winding up order.
- (5) An order under this section shall be made by statutory instrument which shall, if it contains provision modifying the effect of any enactment as it relates to the corporation, be subject to annulment in pursuance of a resolution of either House of Parliament.]

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Textual Amendments

- F3** Ss. 36–36H substituted for sections 36 and 36A by [Enterprise and New Towns \(Scotland\) Act 1990 \(c. 35, SIF 64\)](#), [s. 33](#)
- F4** Words in [s.36\(2\)\(b\)](#) substituted (1.4.1996) by 1994 c. 39, s. 180(1), [Sch. 13 para. 73\(3\)\(b\)](#); S.I. 1996/323, [art. 4\(1\)\(c\)](#)

[^{F5}36A Application of sections 35 etc. to operators of telecommunication systems.

Sections 35, 36B and 36D of this Act shall have effect as if references to statutory undertakers included references to operators of [^{F6}an electronic communications code network] and as if for this purpose—

- (a) references to a statutory undertaking were references to [^{F7}the provision of such a network], and
- (b) references to the appropriate Minister were references to the Secretary of State for Trade and Industry.]

Textual Amendments

- F5** Ss. 36–36H substituted for sections 36 and 36A by [Enterprise and New Towns \(Scotland\) Act 1990 \(c. 35, SIF 64\)](#), [s. 33](#)
- F6** Words in s. 36A substituted (17.9.2003) by [Communications Act 2003 \(Consequential Amendments\) Order 2003 \(S.I. 2003/2155\)](#), [art. 1\(1\)](#), [Sch. 1 para. 6\(1\)\(e\)\(2\)\(b\)](#)
- F7** Words in s. 36A substituted (17.9.2003) by [Communications Act 2003 \(Consequential Amendments\) Order 2003 \(S.I. 2003/2155\)](#), [art. 1\(1\)](#), [Sch. 1 para. 6\(1\)\(e\)\(2\)\(d\)](#)

[^{F8}36B Additional power to dispose of property etc.

- (1) Subject to the conditions set out in subsection (2) below and without prejudice to the powers contained in section 3, 18, 18AA or 18B of this Act, a development corporation may dispose of any of their property, rights or liabilities on such terms (including by way of gift) as they think fit to any person, including (without prejudice to this generality) Scottish Enterprise, . . . ^{F9F10} . . . a local authority or a statutory undertaker.
- (2) The conditions relating to the power conferred by subsection (1) above are that the power may be exercised only—
 - (a) with the consent (which may be general or specific) of the Secretary of State, and
 - (b) during the period from the date of coming into force of the winding up order until the date of dissolution of the corporation.]

Textual Amendments

- F8** Ss. 36–36H substituted for sections 36 and 36A by [Enterprise and New Towns \(Scotland\) Act 1990 \(c. 35, SIF 64\)](#), [s. 33](#)
- F9** Words repealed by [Enterprise and New Towns \(Scotland\) Act 1990 \(c. 35, SIF 64\)](#), [s. 38\(2\)](#), [Sch. 5 Pt. I](#)
- F10** Words in [s. 36B\(1\)](#) repealed (1.11.2001) by 2001 asp 10, s. 112, [Sch. 10 para. 1\(a\)](#); S.S.I. 2001/397, [art. 2\(2\)](#) (subject to transitional provisions in arts. 3-7)

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[^{F11}36C Direction and order making powers of Secretary of State.

- (1) Without prejudice to the power contained in section 4(2) of this Act the Secretary of State may, in relation to a development corporation who are subject to a winding up order—
 - (a) during the period from the date of coming into force of the order until the date named in the order as the date by which the corporation are to be wound up (the “winding up date”), give directions (which may be general or specific) to the corporation in relation to the winding up; and
 - (b) during the period from the winding up date until the date of dissolution of the corporation, give directions (which may be general or specific) to the corporation.
- (2) In the case of a development corporation who are subject to a winding up order the Secretary of State may exercise the power conferred by section 5(2) of this Act without its having to appear to him that there are exceptional circumstances rendering such exercise expedient.]

Textual Amendments

F11 Ss. 36–36H substituted for sections 36 and 36A by [Enterprise and New Towns \(Scotland\) Act 1990](#) (c. 35, SIF 64), s. 33

[^{F12}36D Transfer orders.

- (1) At any time after a winding up order has been made the Secretary of State may by order (a “transfer order”), made by statutory instrument and subject to annulment in pursuance of a resolution by either House of Parliament, provide for the transfer of any property, rights and liabilities of a development corporation to any person, including (without prejudice to this generality) Scottish Enterprise, . . . ^{F13F14} . . . a local authority or a statutory undertaker.
- (2) A transfer order may#
 - (a) transfer the property, rights and liabilities on such terms (which may include transfer either with or without consideration) as the Secretary of State may provide in the order,
 - (b) include provisions amending any enactment relating to Scottish Enterprise, . . . ^{F13F14} . . . a local authority or a statutory undertaker for the purpose, or in consequence, of any transfer made to any such body by virtue of subsection (1) above, and
 - (c) contain any such incidental, consequential, supplementary or ancillary provisions as the Secretary of State thinks necessary or expedient for the purposes of the order.
- (3) Any property, right or liability transferred to any person by a transfer order shall vest in that person on such date as may be specified in the order.
- (4) If a person to whom any land is transferred by a transfer order wishes to complete his title to the land by expediting a notarial instrument or notice of title or otherwise, the order shall be deemed to be and may be used as a general disposition or assignation of the land in his favour.]

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Textual Amendments

- F12** Ss. 36–36H substituted for sections 36 and 36A by [Enterprise and New Towns \(Scotland\) Act 1990 \(c. 35, SIF 64\)](#), **s. 33**
- F13** Words repealed by [Enterprise and New Towns \(Scotland\) Act 1990 \(c. 35, SIF 64\)](#), s. 38(2), **Sch. 5 Pt. I**
- F14** Words in s. 36D(1)(2)(b) repealed (1.11.2001) by [2001 asp 10, s. 112](#), **Sch. 10 para. 1(b)**; S.S.I. 2001/397, **art. 2(2)** (subject to transitional provisions in arts. 3-7)

[^{F15}36E Reduction of liability of development corporation.

- (1) If the Secretary of State is satisfied that it is expedient, having regard to the provisions of any transfer order or proposed transfer order, that the liability of a development corporation in respect of advances made to them under this Act should be reduced he may, by order made with the consent of the Treasury, reduce that liability to such extent as may be specified in the order.
- (2) Section 46(6) of this Act applies to orders under this section.]

Textual Amendments

- F15** Ss. 36–36H substituted for sections 36 and 36A by [Enterprise and New Towns \(Scotland\) Act 1990 \(c. 35, SIF 64\)](#), **s. 33**

[^{F16}36F Grants by Secretary of State.

- (1) Where the Secretary of State is satisfied that a disposal of land by a development corporation or any transfer of land under a transfer order imposes or will impose a financial burden on the disponent or transferee he may make grants to the disponent or transferee of amounts to be determined by him with the consent of the Treasury.
- (2) Where a development corporation are satisfied as mentioned in subsection (1) above they may make grants of amounts to be determined by them with the approval of the Secretary of State and the consent of the Treasury.
- (3) Any grant made under this section may be given subject to such conditions as the granter thinks appropriate including (without prejudice to this generality) conditions requiring repayment of all or any part of a grant in the event of non-compliance with any other condition; and any consent given under this section may be general or specific.]

Textual Amendments

- F16** Ss. 36–36H substituted for sections 36 and 36A by [Enterprise and New Towns \(Scotland\) Act 1990 \(c. 35, SIF 64\)](#), **s. 33**

[^{F17}36G Dissolution of development corporation.

- (1) A development corporation shall, after the making of a winding up order relating to them, remain in existence until such date as the Secretary of State, after consultation

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with the corporation, appoints for their dissolution by order made by statutory instrument.

- (2) The date appointed under subsection (1) above shall not be earlier than the date provided for in the winding up order for the completion of the winding up of the corporation.]

Textual Amendments

F17 Ss. 36–36H substituted for sections 36 and 36A by [Enterprise and New Towns \(Scotland\) Act 1990](#) (c. 35, SIF 64), s. 33

[^{F18}36H Financial consequences of winding up.

Any surplus arising from the winding up of a development corporation shall be paid into the Exchequer and any deficit shall be defrayed out of money provided by Parliament.]

Textual Amendments

F18 Ss. 36–36H substituted for sections 36 and 36A by [Enterprise and New Towns \(Scotland\) Act 1990](#) (c. 35, SIF 64), s. 33

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