



Sheriff Courts (Scotland) Act 1971

1971 CHAPTER 58

PART II **S**

COURT HOUSES, BUILDINGS AND OFFICES

23 **Transfer of court houses to Secretary of State. **S****

- (1) Subject to the provisions of this section, there shall on the transfer date be transferred to and vest in the Secretary of State by virtue of this subsection all interests held by—
 - (a) a county council, being interests in or attaching to property used immediately before the transfer date by them for the purposes of their functions under the Sheriff Court Houses (Scotland) Acts 1860 to 1884 (which provide for the provision and maintenance of sheriff court houses);
 - (b) Court House Commissioners or other bodies charged with the like functions (such Commissioners and other bodies being hereafter in this Part of this Act referred to as Commissioners), being interests in or attaching to property used immediately before the transfer date by them for the purposes of functions conferred on them by any local enactment, being functions relating to the provision or maintenance of a sheriff court house.
- (2) Subject to the provisions of this section, all rights, liabilities and obligations to which a county council or Commissioners were entitled or subject immediately before the transfer date, being rights, liabilities and obligations acquired or incurred for the purposes of any such functions as are mentioned in paragraph (a) or, as the case may be, paragraph (b) of subsection (1) above, shall on the transfer date be transferred to and vest in the Secretary of State by virtue of this subsection.
- (3) Subject to the provisions of this section, where before the transfer date a local authority have paid to Commissioners any sum levied on that authority by those Commissioners under any local enactment, being a sum so levied for the purpose of enabling or assisting the Commissioners to discharge any such functions as are mentioned in paragraph (b) of subsection (1) above, then any liabilities or obligations to which the authority were subject immediately before the transfer date shall, to the extent that they were incurred for the purpose of enabling or assisting the authority to pay the said

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sum, be transferred to and vest in the Secretary of State by virtue of this subsection on the transfer date.

(4) There shall be apportioned between the Secretary of State and the other persons concerned—

- (a) interests in or attaching to property used partly for the purposes of the functions mentioned in paragraph (a) or, as the case may be, paragraph (b) of subsection (1) above and partly for other purposes;
- (b) periodical sums payable in respect of such interests;
- (c) rights, liabilities and obligations acquired or incurred partly for the purposes of any such functions as are mentioned in paragraph (a) or, as the case may be, paragraph (b) of subsection (1) above and partly for other purposes.

(5) The Secretary of State may make regulations providing—

- (a) for the completion of the title of the Secretary of State to heritable property vesting in him by virtue of this section;
- (b) for the granting of the deeds required to transfer to and vest in the Secretary of State and the other persons concerned, with effect from the transfer date, the appropriate shares of such interests, sums, rights, liabilities or obligations as are specified in subsection (4) of this section;
- (c) for any other matters for which provision appears to the Secretary of State to be necessary or expedient for the purpose of securing the effective transfer of any assets vesting in the Secretary of State by virtue of this section;
- (d) for securing that anything done by or in relation to a county council or, as the case may be, Commissioners before the transfer date in connection with the exercise of any such functions as are mentioned in paragraph (a) or, as the case may be, paragraph (b) of subsection (1) above is deemed on and after that date to have been done by or in relation to the Secretary of State and, without prejudice to the foregoing provisions of this paragraph, that anything begun before that date by a county council or, as the case may be, Commissioners in the exercise of their said functions may be carried on and completed on and after that date by the Secretary of State;

and any such regulations may contain such incidental, supplemental or consequential provisions as appear to the Secretary of State to be necessary or expedient for the purposes of the regulations.

(6) The power to make regulations under subsection (5) above shall be exercisable by statutory instrument, which shall be subject to annulment in pursuance of a resolution of either House of Parliament.

(7) In this section references to the Secretary of State are references to the Secretary of State for the Environment.

24 **Provision and maintenance of court houses by Secretary of State.** S

(1) The Secretary of State may, with the approval of the Treasury, provide such court houses, offices, buildings and other accommodation as may be necessary or desirable for carrying on the business of the sheriff courts.

(2) The Secretary of State shall cause all court houses, offices, buildings and other accommodation used for the purpose of carrying on the business of the sheriff courts to be maintained in a proper state of repair and adequately furnished, equipped, cleaned, lighted and heated.

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- (3) It is hereby declared that the references to land necessary for the public service in—
- (a) section 2 of the ^{M1}Commissioners of Works Act 1852 (acquisition by agreement of land necessary for the public service), and
 - (b) section 30(1) of the ^{M2}Town and Country Planning (Scotland) Act 1969 (compulsory acquisition of land necessary for the public service),
- include references to any land which is required by the Secretary of State for the purpose of the discharge of his functions under this section.
- (4) For the purpose of the acquisition by agreement of land required by the Secretary of State for the purpose of the discharge of his functions under this section, the Lands Clauses Acts (except so much thereof as relates to the acquisition of land otherwise than by agreement and the provisions relating to access to the special Act and except sections 120 to 125 of the ^{M3}Lands Clauses Consolidation (Scotland) Act 1845), and section 6 and sections 70 to 78 of the ^{M4}Railways Clauses Consolidation (Scotland) Act 1845 (as originally enacted and not as amended by section 15 of the ^{M5}Mines (Working Facilities and Support) Act 1923) are hereby incorporated with this Act, and in construing those Acts for the purposes of this Act, this Act shall be deemed to be the special Act and the Secretary of State shall be deemed to be the promoter of the undertaking.
- (5) Subsections (1), (2) and (3) of section 35 of the ^{M6}Local Government (Scotland) Act 1966 (which, among other things, enable a local authority to enter into an agreement with the Secretary of State for the placing at his disposal, for the purposes of any function of his, of staff, etc., of the authority) shall apply also for the purpose of enabling Commissioners to enter into an agreement with the Secretary of State, being an agreement in relation to the discharge of his functions under this section of such a nature as is described in the said subsection (1); and for the purpose of such application the first and last references to a local authority in each of the said subsections (1) and (2) shall include a reference to Commissioners.

Marginal Citations

- M1** 1852 c. 28.
M2 1969 c. 30.
M3 1845 c. 19.
M4 1845 c. 33.
M5 1923 c. 20.
M6 1966 c. 51.

25 Use of public buildings for holding of courts. **S**

- (1) Where in any place in which a sheriff court is to be held there is a building, being a court house or other building belonging to a local or other public authority, then, if it appears to the Secretary of State expedient for the purpose of avoiding delay in the administration of justice, that building shall, with all necessary rooms, furniture and fittings therein, be used for the purpose of holding the court, without payment for such use except the reasonable and necessary charges for cleaning, lighting and heating the building when used for the said purpose.
- (2) Where any such building is used for the purpose of holding a sheriff court, the sittings of the court shall be so arranged as not to interfere with the business of the local or

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other public authority usually transacted in the building or with any purpose for which the building may be used by virtue of any local enactment.

26 Use of court houses by third parties. S

The Secretary of State may enter into agreements with any person for and with respect to the use by that person, on such terms and conditions as may be determined by the Secretary of State, of court houses, offices, buildings or other accommodation used for the purpose of carrying on the business of the sheriff courts, so however that any use so agreed shall be at such times as the said court houses, offices, buildings or other accommodation are not required for the said purpose.

27 Compensation for officers and servants. S

- (1) The Secretary of State may, with the concurrence of the Minister for the Civil Service, make regulations providing for the payment by the Secretary of State, subject to such exceptions or conditions as may be prescribed in the regulations, of compensation to or in respect of persons who suffer loss of employment, or loss or diminution of emoluments, which is attributable to the provisions of this Part of this Act or of any regulations made thereunder.
- (2) Regulations under this section may—
 - (a) include provision for the determination of questions arising under the regulations,
 - (b) be framed so as to have effect from a date earlier than the making of the regulations,but so that regulations having effect from a date earlier than their making shall not place any individual in a worse position than he would have been in if the regulations had been so framed as to have effect only from the date of their making.
- (3) Regulations under this section may contain such incidental, supplemental or consequential provisions as appear to the Secretary of State to be necessary or expedient for the purposes of the regulations.
- (4) The power to make regulations under this section shall be exercisable by statutory instrument, which shall be subject to annulment in pursuance of a resolution of either House of Parliament.

28 Repeal and amendment of local enactments. S

- (1) If it appears to the Secretary of State that any local enactment passed or made before the transfer date is inconsistent with any of the provisions of this Part of this Act or of any regulations made thereunder, or requires to be amended having regard to any of the provisions of that Part or of any such regulations, he may by order repeal or amend that enactment to such extent, or in such manner, as he considers appropriate.
- (2) An order under this section may contain such incidental, supplemental or consequential provisions as appear to the Secretary of State to be necessary or expedient for the purposes of the order.
- (3) The power to make orders under this section shall be exercisable by statutory instrument, which shall be subject to annulment in pursuance of a resolution of either House of Parliament.

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29 Determination of disputes. S

Any dispute arising from the operation of the provisions of this Part of this Act or of regulations made thereunder (other than regulations made under section 27 thereof) shall, in default of agreement, be determined by an arbiter agreed upon by the parties or, failing such agreement, appointed by the Lord President of the Court of Session on the application of any of the parties to the dispute.

30 Interpretation of Part II. S

In this Part of this Act—

“local enactment” includes a provision in any local Act of Parliament;

“the transfer date” means such date as the Secretary of State may by order made by statutory instrument appoint for the purposes of this Part of this Act.

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