



# Local Government (Miscellaneous Provisions) (Scotland) Act 1981

## 1981 CHAPTER 23

### PART IV

#### MISCELLANEOUS

#### **24 Powers of Commissioner for Local Administration in Scotland**

The 1975 Act shall, as regards the powers of the Commissioner for Local Administration in Scotland, have effect subject to the amendments specified in Schedule 1 to this Act.

#### **25 Relaxation of controls over local authorities**

The enactments specified in Schedule 2 to this Act shall have effect subject to the amendments specified in that Schedule, being amendments which lessen the degree of control exercised over local and other authorities by the Treasury, Secretary of State or other persons.

#### **26 Consent to local authority incurring liability to meet capital expenses etc.**

In section 94 of the 1973 Act (which requires a local authority to obtain the consent of the Secretary of State to their incurring liability to meet capital expenses)—

(a) after subsection (1A) there shall be inserted the following subsection—

“(1B) The Secretary of State may—

- (a) withdraw, or vary the terms of, a consent which he has, under subsection (1) above, given; or
- (b) withdraw or vary any condition to which the giving of such consent was subject,

where, or in so far as, the local authority have not, by binding contract, incurred the liability to which the consent relates.”; and

(b) after subsection (2) there shall be added the following subsections—

“(3) The Secretary of State may by order (either or both)—

- (a) amend the definition of " capital expenses " in subsection (2) above;
- (b) provide that subsection (1) above shall, in the same manner as it applies to capital expenses, apply to such other expenses, incurred in relation to a lease (or other contract, or arrangement, of a like nature), as may be specified in the order and, for the purposes of such application, prescribe a method for assigning a capital value to those other expenses.

(4) An order made under subsection (3) above shall have no effect until approved by resolution of each House of Parliament.”.

## **27 Consent to certain local authority borrowing**

For sub-paragraph (2) of paragraph 1 of Schedule 3 to the 1975 Act (which empowers a local authority to borrow sums required to meet certain expenses where the local authority are satisfied that the expenses should be so met and repayment spread over a term of years) there shall be substituted the following sub-paragraph—

“(2) With the consent of the Secretary of State, a local authority may borrow, on such terms and conditions as to repayment as the Secretary of State may in so consenting allow, such sums as are required to meet expenses, other than expenses to which sub-paragraph (1) above relates, which the authority have power to incur in the exercise of any of their functions (excluding functions relating to a public utility undertaking); but the Secretary of State shall give such consent only if satisfied that the expenses are of such a nature that they should be met by such borrowing.”.

## **28 Repeal of special licensing provisions in respect of new towns**

Part IV of, and Schedule 3 to, the Licensing (Scotland) Act 1976 (which make special provision for new towns as regards licensing with respect to alcoholic liquor) shall cease to have effect.

## **29 Abolition of Advisory Council on Social Work**

The Advisory Council on Social Work is hereby abolished ; and accordingly, in the Social Work (Scotland) Act 1968, section 7 (which relates to the appointment, constitution and functions etc. of the Council) shall cease to have effect.

## **30 Abolition of Scottish Food Hygiene Council**

The Scottish Food Hygiene Council is hereby abolished; and accordingly, in the Food and Drugs (Scotland) Act 1956, section 25 (which relates to the appointment, constitution and functions of the Council) shall cease to have effect.

**31 Abolition of Scottish River Purification Advisory Committee**

The Scottish River Purification Advisory Committee is hereby abolished; and accordingly, in the Rivers (Prevention of Pollution) (Scotland) Act 1951, subsections (2), (3) and (4) of section 1 (which relate to the appointment, constitution and functions of that committee) shall cease to have effect.

**32 Abolition of advisory committee on conservation and provision of water supplies etc.**

The advisory committee appointed under section 1 of the Water (Scotland) Act 1946 (a section which among other things provided that the Secretary of State was to appoint such a committee to advise him as regards matters concerning the conservation and provision of water supplies etc. and which is re-enacted as section 1 of the Water (Scotland) Act 1980) is hereby abolished; and accordingly paragraph (c) of section 1 of the said Act of 1980 shall cease to have effect.

**33 Power of water authority or water development board to relax or dispense with byelaw relating to misuse of water**

In section 70 of the Water (Scotland) Act 1980 (which empowers a water authority or water development board to make byelaws for preventing waste, undue consumption, misuse or contamination of water supplied by them), after subsection (3) there shall be added the following subsection—

“(4) Where a water authority or water development board consider that a byelaw made by them under this section ought not to operate in relation to any particular case or class of cases they may, with the consent of the Secretary of State, relax the requirements of, or dispense with compliance with, that byelaw accordingly:

Provided that the authority, or as the case may be the Board, shall, in such manner and to such person, if any, as the Secretary of State may direct, give notice of any such proposed relaxation or dispensation; and the Secretary of State—

- (a) shall not give his consent before the expiration of one month from the giving of the notice; and
- (b) shall, before giving his consent, take into consideration any relevant objection which may have been received by him.”.

**34 Conditions of improvement grant not to include requirement as to letting**

- (1) Subject to subsection (2) below, subsection (3) of section 9 of the Housing (Scotland) Act 1974 (which provides that it may be a condition of an improvement grant that the house, at all times at which it is not occupied by the applicant or any of his family, be let or kept available for letting), shall cease to have effect; and, notwithstanding any record made under subsection (9) of that section, there shall no longer be any requirement to observe a condition which has been imposed under the said subsection (3).
- (2) Subsection (1) above, paragraphs 29 and 31 of Schedule 3 to this Act, and, in so far as relating to the said Act of 1974, Schedule 4 to this Act have no effect as regards

the operation of that Act in relation to a breach of a condition if that breach occurred before the coming into force of this section.

### **35 Vesting in landlord to bring into being tenant's right to purchase dwelling-house**

In the Tenants' Rights, Etc. (Scotland) Act 1980, after section 1 there shall be inserted the following section—

#### **“1A Vesting in landlord by order.**

- (1) Subject to subsection (2) below where, but for the fact that a landlord is not the heritable proprietor of land on which dwelling-houses have been let (or made available for letting) by it, one or more of its tenants would have a right to purchase under section 1 of this Act, the Secretary of State may by order made by statutory instrument provide that the whole of the heritable proprietor's interest in the land shall vest in the landlord.
- (2) An order under this section shall only be made where—
  - (a) the heritable proprietor is a body mentioned in any of paragraphs (a), (b), (c) and (f) of section 10(2) of this Act; and
  - (b) the Secretary of State is of the opinion, after consultation with the heritable proprietor and with the landlord that the order is necessary if the right to purchase is to come into being.
- (3) An order under this section shall have the same effect as a declaration under section 278 of the Town and Country Planning (Scotland) Act 1972 (general vesting declarations) except that in relation to such an order, the enactments mentioned in Schedule A1 to this Act shall have effect subject to the modifications specified in that Schedule.
- (4) Compensation under the Land Compensation (Scotland) Act 1963, as applied by subsection (3) above and Schedule A1 to this Act, shall be assessed by reference to values current on the date the order under this section comes into force.
- (5) An order under this section shall have no effect until approved by resolution of each House of Parliament.
- (6) An order under this section which would, apart from the provisions of this subsection, be treated for the purposes of the Standing Orders of either House of Parliament as a hybrid instrument shall proceed in that House as if it were not such an instrument.
- (7) An order under this section may include such incidental, consequential or supplementary provisions as may appear to the Secretary of State to be necessary or expedient for the purposes of this Act.”

### **36 Planning applications and consideration of the needs of the disabled**

In section 26 of the Town and Country Planning (Scotland) Act 1972 (which provides for the determination by planning authorities of applications for planning permission) the following subsection shall be inserted after subsection (4)—

“(4A) When granting an application for planning permission as regards any building or premises in relation to which a duty is imposed by any of sections 4, 5 and 7 to 8A of the Chronically Sick and Disabled Persons Act 1970 (facilities at premises open to the public to include, where reasonable and practicable, provision for the needs of the disabled etc.) the planning authority shall ensure that the applicant is aware of such duty.”.

### **37 Further provision as regards the needs of the disabled**

(1) In each of sections 4(1), 5(1), 6(2), 8(1) and 8A(1) of the Chronically Sick and Disabled Persons Act 1970 (which impose on persons undertaking the provision of public buildings etc. certain duties as regards the needs of the disabled)—

- (a) for the words "provision, in so far as it is in the circumstances both practicable and reasonable" there shall be substituted the words "appropriate provision"; and
- (b) at the end there shall be added the words "unless such body as may be prescribed by the Secretary of State is satisfied, after carrying out any procedures which may be so prescribed, that in the circumstances it is either not practicable to make such provision or not reasonable that such provision should be made."

(2) After the said section 4(1) there shall be inserted the following subsection—

“(1A) In subsection (1) above "appropriate provision" in relation to any case means provision conforming with so much of the Code of Practice for Access for the Disabled to Buildings as is relevant to that case and "prescribed" means prescribed by regulations made by statutory instrument, which shall be subject to annulment in pursuance of a resolution of either House of Parliament; and in the foregoing provisions of this subsection "the Code of Practice for Access for the Disabled to Buildings" means the British Standards Institution code of practice referred to as BS 5810: 1979.”.

(3) After the said section 5(1) the following words shall be inserted as section 5(1A)—

“Subsection (1A) of section 4 of this Act shall apply in relation to the interpretation of the last foregoing subsection of this section as the said subsection (1A) applies in relation to the interpretation of subsection (1) of that section.”;

and the same words shall be inserted as sections 6(2A), 8(1A) and 8A(1A) of the said Act of 1970.

(4) In section 28 of the said Act of 1970 (which empowers the Secretary of State to define certain expressions appearing therein), after the word "Parliament" there shall be inserted "(a)" and at the end there shall be added the words “; or

- (b) amend the definition of "the Code of Practice for Access for the Disabled to Buildings" in section 4(1A) of this Act.”.

### **38 Postponement of effect of section 127(3) and (4) of the Education (Scotland) Act 1980**

(1) In Schedule 6 to the Education (Scotland) Act 1980 (which lists provisions thereof whose commencement is postponed until such day as the Secretary of State may by order appoint), at the end there shall be added the following paragraph (which relates

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*Status: This is the original version (as it was originally enacted).*

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to provisions requiring, among other things, a written summary of such vocational advice as a school leaver has received to be given to that school leaver)—

“16 Section 127(3) and (4).”.

(2) Without prejudice to the validity of—

(a) any actings of an education authority before the coming into force of this section ; or

(b) any expenses incurred in connection with such actings,

the said Act of 1980 shall be deemed to have had effect as if originally enacted as amended by subsection (1) above.