



# Local Government etc. (Scotland) Act 1994

## 1994 CHAPTER 39

### PART I

#### LOCAL GOVERNMENT REORGANISATION

#### CHAPTER 4

#### GENERAL

### 20 Joint committees and joint boards

After section 62 of the 1973 Act (standing orders, etc.) there shall be inserted—

#### “62A Incorporation of joint committees

- (1) Where—
- (a) arrangements are made (whether under this Act or any other enactment) for two or more local authorities (in this Part of this Act referred to as “the relevant authorities”) to discharge any of their functions, or any functions in any area, jointly;
  - (b) the relevant authorities have—
    - (i) appointed, or propose to appoint, a joint committee to discharge those functions; and
    - (ii) advertised their proposals in accordance with subsection (2) below; and
  - (c) application is made, in writing, to the Secretary of State by the relevant authorities for the incorporation of that joint committee (or proposed joint committee) as a joint board to carry out those functions,

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the Secretary of State may by order establish a joint board in accordance with this section to discharge those functions.

- (2) Before applying to the Secretary of State under subsection (1)(c) above, the relevant authorities shall place in at least one daily newspaper circulating in their areas an advertisement—
- (a) giving brief details of what they propose to do;
  - (b) giving an address to which representations about the proposal may be sent; and
  - (c) fixing a date, being not less than 8 weeks after the date on which the advertisement appears, within which representations may be made,
- and they shall include with their application evidence that an advertisement has been placed.
- (3) Where any representations are timeously made in response to an advertisement placed in accordance with subsection (2) above, the relevant authorities shall consider them and shall include with their application a statement that they have done so.
- (4) An order under subsection (1) above shall delegate to the joint board such of the functions of the relevant authorities as may be specified in the order and may include provision with respect to—
- (a) the constitution and proceedings of the joint board;
  - (b) matters relating to the membership of the joint board;
  - (c) the transfer to the joint board of any property, rights and liabilities of the relevant authorities;
  - (d) the transfer to the joint board of any staff of the relevant authorities;
  - (e) the supply of services or facilities by the relevant authorities to the joint board,
- and may, without prejudice to the generality of paragraphs (a) to (e) above, apply (with or without modifications) any of the provisions of Part V of this Act to a joint board as those provisions apply to a joint committee.
- (5) A joint board established under this section shall be a body corporate and shall have a common seal.
- (6) An order under subsection (1) above shall be in terms agreed by the relevant authorities.
- (7) An instrument containing an order under this section shall be subject to annulment in pursuance of a resolution of either House of Parliament.

### **62B Power of Secretary of State to establish joint boards**

- (1) Where the Secretary of State considers—
- (a) that any functions, or any functions in any area, of the relevant authorities should be discharged jointly by those authorities; and
  - (b) that arrangements, or satisfactory arrangements, for the joint discharge of those functions—
    - (i) have not been made by the relevant authorities; or
    - (ii) have ceased to be in operation,

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he may, after consulting the relevant authorities, by order establish a joint board in accordance with this section.

- (2) Subsections (4) and (5) of section 62A of this Act shall apply to a joint board established under this section as they apply to a joint board established under that section with the substitution of a reference to subsection (1) of this section for the reference to subsection (1) of that section.
- (3) No order shall be made under subsection (1) above unless a draft of the instrument containing the order has been laid before, and approved by resolution of, each House of Parliament.

### **62C Further provisions relating to joint boards**

- (1) Where a joint board has been established by order under section 62A or 62B of this Act, the Secretary of State may by order provide—
  - (a) for excluding any functions, or any functions in any area, from those specified in the order establishing that joint board; and
  - (b) for the dissolution of the joint board.
- (2) An order shall not be made under subsection (1) above unless the Secretary of State has consulted the relevant authorities.
- (3) An instrument containing an order under this section shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (4) The power to make an order under this section or section 62A or 62B of this Act shall include power to make such transitional, incidental, supplemental or consequential provision as the Secretary of State thinks necessary or expedient.
- (5) An order under this section or section 62A or 62B of this Act may, for the purpose of making such provision as is mentioned in subsection (4) above—
  - (a) apply with or without modifications;
  - (b) extend, exclude or amend; or
  - (c) repeal or revoke with or without savings,any enactment or any instrument made under any enactment.”.

## **21 Application of section 211 of the 1973 Act to joint boards**

In section 211 of the 1973 Act (provisions for default of local authority), after subsection (4) insert—

“(5) The provisions of this section shall apply to a joint board as they apply to a local authority.”.

## **22 Community councils**

- (1) Subject to subsection (2) below, schemes for the establishment of community councils made and approved under section 52 of the 1973 Act, including any such schemes as amended by virtue of section 53 of that Act, which are effective immediately before 1st April 1996 shall continue to have effect in respect of the area, or part of an area, to which they apply on and after that date.

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- (2) Without prejudice to their duty under section 53 of the 1973 Act, on and after 1st April 1996, a local authority may revoke a scheme (or an amended scheme) such as is mentioned in subsection (1) above in so far as it relates to their area and make a new scheme in accordance with this section.
- (3) Where a local authority propose to make a new scheme such as is mentioned in subsection (2) above—
- (a) they shall give public notice of their intention to revoke the existing scheme and make a new scheme for the establishment of community councils, and any such notice shall invite the public, within a period of not less than eight weeks from the date of the notice, to make suggestions as to the areas and composition of the community councils;
  - (b) after considering suggestions made under paragraph (a) above, the local authority shall prepare and give public notice of a draft scheme which shall contain—
    - (i) a map showing the boundaries of the proposed areas of community councils and their populations, and the boundaries of any area for which the local authority consider a community council to be unnecessary;
    - (ii) where a local authority consider that a community council is unnecessary for any area, a statement of their reasons for arriving at that conclusion;
    - (iii) provisions relating to qualifications of electors, elections or other voting arrangements, composition, meetings, financing and accounts of community councils;
    - (iv) provisions concerning the procedures to be adopted by which the community councils on the one hand and the local and public authorities with responsibilities in the areas of the community councils on the other will keep each other informed on matters of mutual interest; and
    - (v) such other information as, in the opinion of the local authority, will help the public to make a reasonable appraisal of the scheme;
  - (c) the notice mentioned in paragraph (b) above shall invite the public, within a period of not less than eight weeks from the date of the notice, to make representations to the local authority as respects the draft scheme;
  - (d) after considering any representations made under paragraph (c) above, the local authority may, after giving public notice of the amendments to the proposals and a further invitation to make representations, amend the draft scheme to take account of those representations and adopt it;
  - (e) the local authority shall give public notice of the scheme in its adopted form together with public notice of such a scheme as it applies to each proposed area, by exhibition in that area, and any such notice shall contain an invitation to electors in the area concerned to apply in writing to the authority for the establishment of a community council in accordance with the scheme.

## **23 Duty to prepare decentralisation schemes**

- (1) Every council shall have a duty to prepare a draft decentralisation scheme for their area in accordance with this section.

- (2) A draft decentralisation scheme shall contain a council's proposals for the administration of their functions within the whole area of the council and shall specify the date or dates by which such a draft scheme shall be implemented and, without prejudice to the generality of the foregoing, may include provision as to—
  - (a) arrangements for the holding of meetings of the council (or any committee or sub-committee of the council) at particular places within the area of the council;
  - (b) the establishment of committees for particular areas and the delegation to those committees (under section 56 of the 1973 Act) of specified functions of the council;
  - (c) the location of offices of the council within the council's area, the staffing of such offices and the delegation to members of staff (under the said section 56) of specified functions;
  - (d) the provision of facilities at particular places within the area of the council where advice may be obtained on services provided by the council.
- (3) Every council shall, before 1st April 1997, give public notice of the fact that they have prepared a draft decentralisation scheme and of the places within their area where copies of the draft scheme may be inspected, and any such notice shall invite the public, within a period of not less than eight weeks from the date of the notice, to make to the council representations as regards the draft scheme.
- (4) Every council shall, during the period mentioned in subsection (3) above, consult the community councils within their area about the draft scheme.
- (5) After considering any representations made under subsection (3) or (4) above, the council may amend the draft scheme (whether to take account of those representations or otherwise) and shall adopt the scheme.
- (6) After the scheme has been adopted, the council shall—
  - (a) send a copy of the scheme in its adopted form to the Secretary of State; and
  - (b) give public notice of such scheme.
- (7) Where a scheme has been adopted, it shall be the duty of the council concerned to implement the scheme by the date or dates specified in the scheme.
- (8) A council may amend a scheme adopted under this section or revoke and replace such a scheme but the amended scheme or, as the case may be, new scheme shall be adopted in accordance with the provisions of this section, subject to such modifications as are necessary.
- (9) The Secretary of State may, after consulting such associations of local authorities and such other persons as appear to him to be appropriate, issue guidance with respect to the form and content of decentralisation schemes.
- (10) A council shall take account of any guidance issued under subsection (9) above.