



# Local Government etc. (Scotland) Act 1994

## 1994 CHAPTER 39

### PART I

#### LOCAL GOVERNMENT REORGANISATION

#### CHAPTER 6

#### FUNCTIONS

#### *Education*

### 31 Education.

For section 124 of the 1973 Act (education committees) there shall be substituted—

**“124 Membership of committees appointed by education authorities.**

- (1) Where an education authority appoint a committee whose purposes include—
  - (a) advising the authority on any matter relating to the discharge of their functions as education authority; or
  - (b) discharging any of those functions of the authority on their behalf,the members of such committee shall, notwithstanding the provisions of section 57(3) and (4)(a) of this Act, be appointed in accordance with this section.
- (2) Subject to the provisions of section 59 of this Act, an education authority who appoint a committee such as is mentioned in subsection (1) above shall secure that—

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*Changes to legislation: There are currently no known outstanding effects for the Local Government etc. (Scotland) Act 1994, Chapter 6. (See end of Document for details)*

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- (a) at least half of the persons appointed by them to be members of such committee are members of the authority; and
  - (b) the persons appointed by them to be members of such committee shall include the three persons mentioned in subsection (4) below.
- (3) Subject to the provisions of subsection (2) above, an education authority may appoint persons who are not members of the authority to be members of a committee such as is mentioned in subsection (1) above.
- (4) The three persons mentioned in subsection (2)(b) above (who shall not be members of the education authority appointing such committee) are—
- (a) one representative of the Church of Scotland, nominated in such manner as may be determined by the General Assembly of the Church;
  - (b) in the case of the education authority for each area other than Orkney Islands, Shetland Islands and Western Isles, one representative of the Roman Catholic Church, nominated in such manner as may be determined by the Scottish Hierarchy of the Church; and
  - (c) one person or, in the case of the education authorities for Orkney Islands, Shetland Islands and Western Isles, two persons, in the selection of whom the authority shall have regard (taking account of the representation of churches under paragraphs (a) and (b) above) to the comparative strength within their area of all the churches and denominational bodies having duly constituted charges or other regularly appointed places of worship there.
- (5) Where two or more authorities appoint a joint committee whose purposes include discharging any of the functions of those authorities as education authorities on their behalf, section 57(3) of this Act shall apply to such a joint committee as if for the words “two-thirds” there were substituted the words “one-half”.

### **32 Co-operation between education authorities.**

- (1) Section 23 of the <sup>M1</sup>Education (Scotland) Act 1980 (provision by education authority for education of pupils belonging to areas of other authorities) shall be amended in accordance with this section.
- (2) After subsection (1) there shall be inserted—
- “(1A) Without prejudice to any other provision of this Act, for the purposes of their duty under section 1 of this Act an education authority shall have power to make arrangements with another education authority (in this subsection referred to as a “provider authority”) for the provision of school education or further education for any pupils belonging to the area of the authority in a school or educational establishment under the management of the provider authority.
  - (1B) Arrangements made under this Act by an education authority for the placing of children in schools may include provision to give effect to any arrangements made under subsection (1A) above.
  - (1C) Where the arrangements for the placing of children in schools subsisting before the establishment of new local government areas under Part I of the Local Government etc. (Scotland) Act 1994 lead, as a consequence of such

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establishment, to school education for pupils belonging to the area of one education authority being provided at schools or educational establishments under the management of another education authority, nothing in this Act shall prevent such arrangements from continuing until they are changed by an education authority in accordance with this Act.”.

(3) After subsection (3) there shall be inserted—

“(3A) Where an education authority’s arrangements for the placing of children in schools under their management give any priority to siblings of pupils attending such schools, those arrangements shall not discriminate between siblings belonging to the area of that education authority and siblings belonging to the area of another education authority.”.

**Marginal Citations**

M1 1980 c. 44.

*Planning*

F1 33 .....

**Textual Amendments**

F1 S. 33 repealed (27.5.1997) by 1997 c. 11, ss. 3, 6(2), Sch. 1 Pt. I (with s. 5, Sch. 3)

*Police*

**34 Reorganisation of police areas.**

After section 21 of the <sup>M2</sup>Police (Scotland) Act 1967 there shall be inserted the following section—

**“21B Reorganisation of police areas.**

- (1) Subject to the provisions of this section, the police forces established and maintained for existing police areas in Scotland under this Act immediately prior to 1st April 1996 shall continue in existence on and after that date in accordance with the provisions of this section.
- (2) The police forces for the existing police areas of Fife and Dumfries and Galloway shall be the police forces for the new police areas of the same names.
- (3) The Secretary of State shall, before 1st April 1996, by order make amalgamation schemes amalgamating the police areas mentioned in the second column of the table below into the combined police areas mentioned in the first column of that table, and the police forces for the existing police areas shown in brackets in the first column shall be the police forces for the new combined police areas.

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TABLE

<b><i>Combined area</i></b>	<b><i>Police areas comprised</i></b>
Northern (Northern).	Highland, Western Isles, Orkney Islands, Shetland Islands.
Grampian (Grampian).	Aberdeenshire, Moray, City of Aberdeen.
Tayside (Tayside).	Perthshire and Kinross, Angus, City of Dundee.
Central Scotland (Central Scotland).	Stirling, Clackmannan, Falkirk.
Lothian and Borders (Lothian and Borders).	City of Edinburgh, East Lothian, Midlothian, West Lothian, the Borders.
Strathclyde (Strathclyde).	Argyll and Bute, Dumbarton and Clydebank, City of Glasgow, East Dunbartonshire, Inverclyde, North Lanarkshire, South Lanarkshire, Renfrewshire, East Renfrewshire, East Ayrshire, North Ayrshire, South Ayrshire.

- (4) Subject to section 19A of this Act, an amalgamation scheme made under this section may contain such provision as the Secretary of State considers necessary or appropriate for the purposes of the scheme including, without prejudice to the generality of the foregoing, any provision which is required to be made, or which may be made, in an amalgamation scheme made by virtue of section 19 of this Act.
- (5) Before making an amalgamation scheme under this section the Secretary of State shall—
- (a) consult such police authorities as appear to him to be affected by the scheme; and
  - (b) where any such authority submit objections to the scheme, inform that authority in writing whether he accepts the objections and, if he does not, why he does not.
- (6) The schemes made by an order under this section shall not take effect before 1st April 1996, except in relation to—
- (a) the constitution of joint police boards; and
  - (b) the carrying out by those boards of any functions necessary to bring the schemes into operation on that date.
- (7) An order under this section shall be made by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament.”.

#### **Marginal Citations**

**M2** 1967 c. 77.

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### 35 Amalgamation schemes.

For section 20 of the <sup>M3</sup>Police (Scotland) Act 1967 there shall be substituted the following section—

#### “20 Power of Secretary of State to make amalgamation schemes.

- (1) If it appears to the Secretary of State that it is expedient in the interests of efficiency to make an amalgamation scheme for any police areas, he may, in accordance with the provisions of this section, make such amalgamation schemes, containing such provisions, as he considers appropriate.
- (2) Without prejudice to the generality of subsection (1) above, but subject to section 19A of this Act, an amalgamation scheme under this section may provide—
  - (a) for the amalgamation of any two or more police areas into a combined area;
  - (b) for the alteration of an existing combined area by the addition to or deletion from it of any police area;
  - (c) for the establishment or re-establishment and maintenance of police forces for any police area or combined area resulting from the scheme;
  - (d) for the dissolution and winding up of any joint police board constituted under a pre-existing amalgamation scheme, or for the reconstitution of any such board;
  - (e) for the transfer or retransfer to such police forces as may be determined by the scheme of constables affected by the scheme;
  - (f) for the transfer or retransfer to such authorities as may be determined by the scheme of any officers, property, rights or liabilities affected by the scheme;
  - (g) for the doing of anything which is required to be done, or which may be done, in an amalgamation scheme made under section 19 of this Act; and
  - (h) for any other matters incidental to or consequential on the provisions of the scheme.
- (3) Before making a scheme under this section which contains provision such as is mentioned in subsection (2)(a) or (b) above the Secretary of State shall—
  - (a) consult such police authorities as appear to him to be affected by the scheme; and
  - (b) where any such authority submit objections to the scheme, inform that authority in writing whether he accepts the objections and, if he does not, why he does not.
- (4) A scheme under this section shall be contained in an order made by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament.”.

#### Marginal Citations

M3 1967 c. 77.

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*Status: Point in time view as at 22/01/2002.*

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### *Fire services*

## 36 Fire services.

For section 147 of the 1973 Act (fire services) there shall be substituted—

### “147 Fire services.

- (1) Subject to the provisions of this section, the fire brigades maintained in Scotland for the purposes of the Fire Services Acts 1947 to 1959 by fire authorities or, where administration schemes have been made, joint committees for combined areas immediately before 1st April 1996 shall continue in existence on and after that date.
- (2) Subject to the provisions of the <sup>M4</sup>Fire Services Act 1947, the fire authority for the purposes of the Fire Services Acts 1947 to 1959 shall, until 31st March 1996, continue to be a regional or islands council and thereafter shall be a local authority.
- (3) The fire brigades for the existing fire authorities of Fife and Dumfries and Galloway shall be the fire brigades for the new fire authorities of the same names.
- (4) The Secretary of State shall, before 1st April 1996, by order make schemes (hereafter referred to as “administration schemes”) for the local government areas comprised in each of the combined areas set out in the Table at the end of this subsection for the provision in the combined area of the services required by section 1 of the Fire Services Act 1947; and the fire brigades for the existing areas shown in brackets in the first column shall be the fire brigades for the new combined areas.

*TABLE*

<i>Combined area</i>	<i>Local government areas comprised</i>
Central (Central Region).	Clackmannan, Falkirk, Stirling.
North Eastern (Grampian Region).	Aberdeenshire, City of Aberdeen, Moray.
Northern (Northern).	Highland, Orkney Islands, Shetland Islands, Western Isles.
South Eastern (South Eastern).	East Lothian, Midlothian, West Lothian, the Borders, City of Edinburgh.
Mid and South Western (Strathclyde Region).	Argyll and Bute, City of Glasgow, Dumbarton and Clydebank, East Dunbartonshire, Inverclyde, East Renfrewshire, East Ayrshire, North Ayrshire, South Ayrshire, North Lanarkshire, South Lanarkshire, Renfrewshire.
Mid Eastern (Tayside Region).	Angus, City of Dundee, Perthshire and Kinross.

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- (5) Subject to subsection (6) below, an administration scheme made under this section may contain such provision as the Secretary of State considers necessary or appropriate for the purposes of the scheme including, without prejudice to the generality of the foregoing, any provision which is required to be made, or which may be made, in an administration scheme under section 36 of the Fire Services Act 1947.
- (6) An administration scheme made under this section shall provide for the incorporation of the joint board with a common seal and shall confer on such a board power to hold land and to borrow money.
- (7) Before making an administration scheme under this section the Secretary of State shall—
  - (a) consult such fire authorities as appear to him to be affected by the scheme; and
  - (b) where any such authority submit objections to the scheme, inform that authority in writing whether he accepts the objections and, if he does not, why he does not.
- (8) An administration scheme made under this section shall not take effect before 1st April 1996, except so far as it relates to—
  - (a) the constitution of the joint board for fire services; and
  - (b) the performance by that board of functions necessary for bringing the scheme into full operation on that date.
- (9) A statutory instrument containing an order under this section shall be subject to annulment in pursuance of a resolution of either House of Parliament.”.

#### Marginal Citations

M4 1947 c. 41.

### Rivers

F237 .....

#### Textual Amendments

F2 S. 37 repealed (1.2.1996) by 1995 c. 25, s. 120(3), Sch. 24 (with ss. 7(6), 115, 117); S.I. 1996/186, art. 2

### Roads

#### 38 Roads.

- (1) The <sup>M5</sup>Roads (Scotland) Act 1984 shall be amended in accordance with this section.
- (2) After section 12 there shall be inserted the following sections—

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*“ Transitory provisions*

**12A Transitional power of Secretary of State as respects existing roads.**

- (1) Without prejudice to section 5 of this Act, where the Secretary of State considers that it is necessary or expedient as a result of, or in connection with, the establishment of new local government areas on 1st April 1996—
- (a) that any existing road should become a trunk road; or
  - (b) that any trunk road should cease to be a trunk road,
- he may by order direct that the road shall become a trunk road or, as the case may be, shall cease to be a trunk road, as from such date as may be specified in that regard in the order.
- (2) Where an order under this section directs that a road shall cease to be a trunk road, it may also direct that—
- (a) as from the date specified in that regard in the order, the local roads authority for the area shall become the roads authority for the road; and
  - (b) the authority shall enter the road in their list of public roads.
- (3) An order under this section may relate to one or more roads.

**12B Transitional power of Secretary of State as respects proposed roads.**

- (1) Without prejudice to section 5 of this Act, where the Secretary of State considers that it is necessary or expedient as a result of, or in connection with, the establishment of new local government areas on 1st April 1996—
- (a) that any proposed road—
    - (i) to be constructed by the local roads authority; and
    - (ii) in respect of which all necessary planning permission has been granted or is deemed to have been granted,
 should become a trunk road; or
  - (b) that any proposed road—
    - (i) to be constructed by the Secretary of State as a trunk road; and
    - (ii) in relation to which an order has been made under section 5 of this Act,
 should not become a trunk road,
- he may by order direct that the proposed road shall or, as the case may be, shall not become a trunk road.
- (2) Where an order is made in respect of a proposed road as mentioned in subsection (1)(a) above—
- (a) subject to subsection (6) below, the Secretary of State may, for the purposes of the construction of that road, do any thing which he would have been entitled to do if an order under section 12 of this Act (in this section referred to as a “section 12 order”) had been made in relation to that road; and



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- (b) where an environmental statement has been published in respect of the project, the Secretary of State shall not be required to publish a further environmental statement,
- but otherwise the Secretary of State shall in all respects be in the same position in relation to that proposed road as the local roads authority would have been if such order had not been made.
- (3) Where an order is made in respect of a proposed road as mentioned in subsection (1)(b) above—
- (a) the local roads authority may proceed with construction of the said road as if all necessary planning permission had been granted;
- (b) the section 12 order made in relation to that road shall apply as if—
- (i) the local roads authority were the roads authority referred to in such order; and
- (ii) all necessary planning permission has been granted; and
- (c) where an environmental statement has been published in respect of the project, the local roads authority shall not be required to publish a further environmental statement.
- (4) Where an order under this section directs that a proposed road shall not become a trunk road, it may also direct that—
- (a) as from the date specified in that regard in the order, the local roads authority for the area shall become the roads authority for the proposed road; and
- (b) on such date as may be specified in that regard in the order, the authority shall enter the road in their list of public roads.
- (5) An order under this section may relate to one or more proposed roads.
- (6) The Secretary of State shall not by virtue of this section be empowered—
- (a) to stop up a road as mentioned in section 12(1)(a)(i) of this Act; or
- (b) to do anything mentioned in paragraphs (a) and (b) of section 70 of this Act except where the local roads authority have been so authorised under a section 12 order; and where such an order has been made, the Secretary of State may do anything he would have been authorised to do if the order had been made by him.
- (7) In this section and in section 12C of this Act “planning permission” means permission under Part III of the <sup>M6</sup>Town and Country Planning (Scotland) Act 1972.

### **12C Transitional power of Secretary of State as respects special road schemes.**

- (1) Where the Secretary of State considers that it is necessary or expedient as a result of, or in connection with, the establishment of new local government areas on 1st April 1996 that—
- (a) a special road which the Secretary of State is authorised to provide by virtue of a scheme under section 7 of this Act (a “section 7 scheme”) should be provided by a local roads authority; or

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- (b) a special road which a local roads authority is authorised to provide by virtue of a section 7 scheme which has been confirmed by the Secretary of State should be provided by the Secretary of State,

he may by order direct that the local roads authority or, as the case may be, the Secretary of State shall be authorised to provide such special road; and the section 7 schemes relating to those special roads shall (notwithstanding their terms) be deemed to authorise the provision of such special roads by the local roads authority and the Secretary of State respectively.

- (2) Where an order is made in respect of a special road as mentioned in subsection (1)(a) above—

- (a) where the Secretary of State has made an order under section 9 of this Act (a “section 9 order”) in relation to that special road, the local roads authority may treat that order as if it were an order made by them and confirmed by the Secretary of State;
- (b) any necessary planning permission (whether relating to the special road or the doing of anything authorised by virtue of the section 9 order) shall be deemed to have been granted to the local roads authority; and
- (c) where an environmental statement has been published in respect of the project, the local roads authority shall not be required to publish a further environmental statement.

- (3) Where an order is made in respect of a special road as mentioned in subsection (1)(b) above—

- (a) if the local roads authority have made a section 9 order which has been confirmed by the Secretary of State, the Secretary of State may treat that section 9 order as if it were an order made by him; and
- (b) where an environmental statement has been published in respect of the project, the Secretary of State shall not be required to publish a further environmental statement,

but otherwise the Secretary of State shall in all respects be in the same position in relation to that special road as the local roads authority would have been if such order had not been made.

#### **12D Application of section 112 to orders under sections 12A, 12B, 12C and 12E.**

The provisions of section 112 of this Act shall apply, subject to such modifications as the Secretary of State may by order specify, to roads, proposed roads and special roads such as may be mentioned in orders made under sections 12A, 12B, 12C and 12E of this Act as they apply to roads mentioned in the said section 112.

#### **12E Further power of Secretary of State as respects proposed roads and special road schemes.**

- (1) Where the Secretary of State considers that it is necessary or expedient as a result of, or in connection with, the establishment of new local government areas on 1st April 1996 that any proposed road to be constructed by a local roads authority should become a trunk road, but the condition mentioned in subsection (1)(a)(ii) of section 12B of this Act is not satisfied in relation to

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such proposed road, he may, notwithstanding the provisions of that subsection, by order direct that the proposed road shall become a trunk road.

- (2) The provisions of paragraphs (a) and (b) of section 12B(2) of this Act shall apply where an order is made under subsection (1) above as they apply where an order is made under subsection (1)(a) of that section.
- (3) Where the Secretary of State considers that it is necessary or expedient as a result of, or in connection with, the establishment of new local government areas on 1st April 1996 that a special road in respect of which a section 7 scheme has been made by a local roads authority but not confirmed by the Secretary of State should be provided by him, he may, notwithstanding the provisions of subsection (1)(b) of section 12C of this Act, by order, direct that he shall be authorised to provide such special road by virtue of such scheme.
- (4) The provisions of paragraphs (a) and (b) of section 12C(3) of this Act shall apply where an order is made under subsection (3) above as they apply where an order is made under subsection (1)(b) of that section.
- (5) An order under subsection (1) or (3) above may include provision specifying the extent to which compliance before the making of that order with any statutory requirement in relation to the proposed road or, as the case may be, special road shall be deemed to satisfy for all purposes any statutory requirement which the Secretary of State would, apart from such provision, have been required to comply with in relation to that proposed road or special road.
- (6) As from the date of an order under subsection (1) or (3) above, the proposed road or, as the case may be, special road shall be deemed always to have been a proposed road to be constructed by the Secretary of State or a special road which the Secretary of State is authorised to provide.

#### **12F Further provisions as to orders.**

An order under section 12A, 12B, 12C, 12D or 12E of this Act may not be made so as to take effect more than 3 years after 1st April 1996.”

- (3) In section 112 (transfer of property and liabilities on road becoming or ceasing to be a trunk road)—
  - (a) in subsection (1), after paragraph (c) there shall be inserted the following paragraph—

“(d) any property such as is mentioned in subsection (1A) below”;
  - (b) after subsection (1) there shall be inserted the following subsections—

“(1A) The property mentioned in paragraph (d) of subsection (1) above is property which—

    - (a) was, immediately before the operative date, vested in the former roads authority for the purposes of their functions in relation to more than one road (including the road mentioned in that subsection); and
    - (b) is specified in an order made by the Secretary of State.
- (1B) Where any property is transferred to and vests in the Secretary of State as mentioned in subsection (1)(d) above, he shall make arrangements

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with the former roads authority as respects the use of that property; and any dispute between the Secretary of State and the former roads authority as to any arrangements made under this subsection shall be determined in like manner as any dispute such as is mentioned in subsection (7) below.”; and

- (c) in subsection (2), for the words “subsection (1)” there shall be substituted the words “ subsections (1) and (1A) ”.

- (4) In section 143(2)(a)(ii) (orders subject to negative resolution), after “section 8” there shall be inserted “ , 12A, 12B, 12C, 12D, 12E ”.

#### Marginal Citations

**M5** 1984 c. 54.

**M6** 1972 c. 52.

### 39 Roads authority for boundary bridges.

After section 81 of the <sup>M7</sup>Roads (Scotland) Act 1984 there shall be inserted—

#### “81A Roads authority for boundary bridges.

- (1) This section applies where a public road is carried by a bridge over a waterway and the bridge lies partly in the areas of two local roads authorities.
- (2) Where this section applies, the authorities concerned may make arrangements as to—
- which of them shall be the roads authority in relation to that bridge;
  - the performance by such roads authority in relation to the bridge of any of the roads functions of the other authority; and
  - the making of contributions by that other authority to the roads authority in respect of expenditure incurred in the performance of those functions.
- (3) Where arrangements are not made as mentioned in subsection (2) above, the Secretary of State may, on the application of one of the roads authorities concerned, make a determination in respect of the matters mentioned in paragraphs (a) to (c) of that subsection.
- (4) A determination of the Secretary of State under subsection (3) above shall be binding.”.

#### Marginal Citations

**M7** 1984 c. 54.

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*Status: Point in time view as at 22/01/2002.*

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### *Public transport*

#### **40 Establishment etc. of Strathclyde Passenger Transport Authority.**

- (1) With effect from 1st April 1996 there shall be a Passenger Transport Authority to be known as the Strathclyde Passenger Transport Authority (in this section referred to as “the Authority”) for the Strathclyde Passenger Transport Area for the purposes of Part II of the <sup>M18</sup>Transport Act 1968.
- (2) On 1st April 1996 all of the functions, staff, property, rights, liabilities and obligations of Strathclyde Regional Council as Passenger Transport Authority shall be transferred to and vest in the Authority.
- (3) Section 9 of this Act shall apply to any person transferred to the Authority under this section as if any reference in that section to a new authority included a reference to the Authority.
- (4) The Secretary of State may by order—
  - (a) designate the passenger transport area of the Authority; and
  - (b) make provision for the constitution and membership of the Authority in accordance with the provisions of Schedule 5 to this Act.
- (5) Without prejudice to the provisions of the said Schedule 5, an order under subsection (4) above shall include—
  - (a) such provision with respect to any of the matters referred to in that Schedule; and
  - (b) such supplementary, incidental and consequential provision, as the Secretary of State considers necessary or expedient.
- (6) Before making an order under subsection (4) above the Secretary of State shall consult such persons or bodies as he thinks fit.
- (7) The following provisions of the 1973 Act shall apply, subject to any necessary modifications, with respect to the Authority as they apply with respect to a local authority or, in the case of section 106(2), a body, that is to say—
  - (a) section 95 (financial administration);
  - (b) section 96 (accounts and audit);
  - (c) section 97 (Commission for Local Authority Accounts in Scotland);
  - (d) section 97A (studies for improving economy etc. in services);
  - (e) section 97B (furnishing of information and documents to Commission);
  - (f) section 98 (expenses and accounts of Commission);
  - (g) section 99 (general duties of auditors);
  - (h) section 100 (auditor’s right of access to documents);
  - (i) section 101 (right of interested person to inspect and object to accounts: completion of audit);
  - (j) section 102 (reports to Commission by Controller of Audit);
  - (k) section 103 (action by Commission on reports by Controller of Audit);
  - (l) section 104 (action by Secretary of State on recommendation by Commission under section 103(3));
  - (m) section 105 (regulations as to accounts); and
  - (n) section 106(2) (accounts of officer to be audited in certain circumstances).

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- (8) The Secretary of State may by order vary the passenger transport area of the Authority.
- (9) An order under this section shall be made by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament.
- (10) Schedule 5 to this Act (which makes provision for the constitution, proceedings etc. of the Authority) shall have effect.

#### Marginal Citations

M8 1968 c. 73.

### 41 Amendment of section 13 of Transport Act 1968.

For section 13 of the Transport Act 1968 (grants to the Executive) there shall be substituted—

#### “13 Grants and payments.

- (1) Any expenditure of the Strathclyde Passenger Transport Authority shall, in so far as not otherwise met, be met by the local authorities whose areas lie wholly or partly within the area of the Authority in such proportions as the <sup>M9</sup>authorities may agree.
- (2) Where—
- (a) the authorities mentioned in subsection (1) above cannot reach agreement as to the proportions in which the expenditure of the Authority shall be met by them and the Authority make an application to the Secretary of State for resolution of the matter; or
  - (b) it appears to the Secretary of State that those authorities are unable to reach such agreement,
- the Secretary of State shall determine the proportions in which such expenditure shall be met by those authorities.
- (3) The Authority shall have power to make grants to the Executive for any purpose.”.

#### Marginal Citations

M9 1968 c. 73.

### Traffic

### 42 Power to secure management of traffic control system.

- (1) Where the Secretary of State considers that—
- (a) for the purposes of securing the expeditious, convenient and safe movement of vehicular and other traffic (including pedestrians), a system of traffic control should extend across the roads of two or more traffic authorities; and

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- (b) the authorities for those roads have not made satisfactory joint arrangements for the exercise of such of their functions under the <sup>M10</sup>Road Traffic Regulation Act 1984 as are necessary to secure the provision and management of such a system of traffic control,  
he may make an order under this section.
- (2) An order under this section may transfer to the Secretary of State such functions of those authorities under that Act as he considers necessary to enable him to secure the provision and management of such a system.
- (3) The Secretary of State may enter into arrangements with such an authority for the carrying out by that authority on his behalf of the functions mentioned in subsection (2) above.
- (4) Any expenses reasonably incurred by the Secretary of State in exercising the functions transferred by an order under this section may be recovered by him from the traffic authorities from which the functions were transferred in such proportions—
- (a) as may be agreed between the authorities; or
- (b) where there is no agreement, as may be determined by him.
- (5) In this section—  
“road” has the same meaning as in the <sup>M11</sup>Roads (Scotland) Act 1984; and  
“traffic authority” has the meaning given by section 121A of the Road Traffic Regulation Act 1984.

#### Marginal Citations

**M10** 1984 c. 27.

**M11** 1984 c. 54.

### 43 Guidance as to exercise of traffic powers.

- (1) For the purpose of ensuring that the exercise by an authority of any of the powers mentioned in subsections (2) and (3) below does not have an adverse effect on the expeditious, convenient and safe movement of vehicular and other traffic (including pedestrians)—
- (a) on the roads of any other authority; or
- (b) on the national system of routes for through traffic in Scotland,
- the Secretary of State may issue guidance to an authority as to the exercise of those powers.
- (2) The powers referred to in subsection (1) above are the powers of an authority to make, vary or revoke orders under or by virtue of any of the following sections of the Road Traffic Regulation Act 1984, that is to say—
- (a) section 1 (traffic regulation orders);
- (b) section 9 (experimental traffic orders);
- (c) section 19 (orders concerning public service vehicles);
- (d) section 32 (provision of parking places by authorities);
- (e) section 35 (orders as to use of parking places);
- (f) section 37 (orders relating to general scheme of traffic control);
- (g) section 38 (orders as to use of parking places as bus or coach stations);

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- (h) section 45 (orders designating paying parking places);
  - (i) section 46 (further orders regulating paying parking places);
  - (j) section 49 (designation orders and designated parking places);
  - (k) section 53 (designation orders);
  - (l) section 82(2) (directions concerning restricted roads); and
  - (m) section 84 (speed limits on certain roads).
- (3) The powers referred to in subsection (1) above are the powers of an authority under sections 36 (construction of road humps) and 39A (construction of traffic calming works) of the <sup>M12</sup>Roads (Scotland) Act 1984.
- (4) Before issuing guidance under this section the Secretary of State shall consult the Common Services Agency for the Scottish Health Service in respect of the provision by them of an ambulance service by virtue of the National Health Service (Functions of the <sup>M13</sup>Common Services Agency) (Scotland) Order 1974 and—
- (a) the chief constables of the police forces maintained;
  - (b) the fire authorities (within the meaning of the <sup>M14</sup>Fire Services Act 1947); and
  - (c) the authorities,
- for the areas to which the guidance relates.
- (5) Without prejudice to his power to make regulations under paragraph 21 of Schedule 9 to the <sup>M15</sup>Road Traffic Regulation Act 1984 or, as the case may be, section 39B(1) of the Roads (Scotland) Act 1984, the Secretary of State may by regulations make provision as to the procedures to be followed by authorities in relation to the guidance.
- (6) An authority shall, before exercising any power mentioned in subsections (2) and (3) above, and subject to any regulations made under subsection (5) above—
- (a) have regard to any guidance issued to them under this section;
  - (b) consider whether the proposed exercise of such power would be likely to have an effect on the expeditious, convenient and safe movement of vehicular and other traffic (including pedestrians)—
    - (i) on a road in the area of any other authority; or
    - (ii) on a road in the national system of routes for through traffic in Scotland; and
  - (c) if the proposed exercise would, in their opinion, have such an effect, consult—
    - (i) in the case of a road such as is mentioned in paragraph (b)(i) of this subsection, the other authority; or
    - (ii) in the case of a road such as is mentioned in paragraph (b)(ii) of this subsection, the Secretary of State.
- (7) Where an authority take any action which, in the opinion of the Secretary of State—
- (a) is contrary to any guidance issued to the authority under this section; and
  - (b) has or is likely to have an adverse effect on either of the matters referred to in paragraphs (a) and (b) of subsection (1) above,
- the Secretary of State may, after consulting the authority, direct the authority to take such steps within a period specified by him as may be necessary to conform with that guidance.
- (8) If, in the opinion of the Secretary of State, an authority have failed to comply with a direction under subsection (7) above, he may exercise any of their powers for the



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purpose of giving effect to the direction; and any expenses reasonably incurred by him in doing so shall be recoverable by him from that authority.

(9) The power to make regulations under this section shall be exercisable by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament.

(10) In this section—

“authority” means—

- (a) in relation to the exercise of the powers mentioned in subsection (2) above, a traffic authority (within the meaning of the <sup>M16</sup>Road Traffic Regulation Act 1984); and
- (b) in relation to the exercise of the powers mentioned in subsection (3) above, a roads authority (within the meaning of the <sup>M17</sup>Roads (Scotland) Act 1984); and

“road” has the same meaning as in the Roads (Scotland) Act 1984.

#### **Marginal Citations**

**M12** 1984 c. 54.

**M13** S.I. 1974/467.

**M14** 1947 c. 41.

**M15** 1984 c. 27.

**M16** 1984 c. 27.

**M17** 1984 c. 54.

#### **44 Restriction on order-making powers of existing authorities.**

(1) Where a regional council propose to make an order such as is mentioned in subsection (2) below and the order—

- (a) will come into effect after such date as the Secretary of State may by order made by statutory instrument prescribe; and
- (b) will continue in effect after 31st March 1996,

they shall, before making the order, seek the consent of the successor authority.

(2) The orders referred to in subsection (1) above are any orders made under the following provisions of the <sup>M18</sup>Road Traffic Regulation Act 1984—

- (a) section 1 (traffic regulation orders);
- (b) section 9 (experimental traffic orders);
- (c) section 14 (temporary traffic orders);
- (d) section 32 (provision of parking places by authorities);
- (e) section 35 (orders relating to use of parking places);
- (f) section 37 (orders as to general scheme of traffic control);
- (g) section 45 (orders designating paying parking places);
- (h) section 46 (further orders regulating paying parking places); and
- (i) section 84 (speed limits on certain roads).

(3) Where a successor authority refuse their consent to a proposed order to which this section applies the regional council shall not make the order without having obtained the consent of the Secretary of State.

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(4) Where—

- (a) a regional council have sought the consent of a successor authority to the making of a proposed order to which this section applies; and
- (b) the successor authority have failed, within 6 weeks of such consent being sought, to consent,

the successor authority shall be deemed to have given such consent.

- (5) In this section “successor authority” means any council constituted under section 2 of this Act (other than the councils for Orkney Islands, Shetland Islands and Western Isles) in whose area the proposed order will have effect.

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**Marginal Citations**

**M18** 1984 c. 27.

*Social work*

**45 Chief social work officer.**

—For section 3 of the <sup>M19</sup>Social Work (Scotland) Act 1968 (director of social work), there shall be substituted the following section—

**“3 Chief social work officer.**

- (1) For the purposes of their functions under this Act and the enactments mentioned in section 5(1B) of this Act, a local authority shall appoint an officer to be known as the chief social work officer.
- (2) The qualifications of the chief social work officer shall be such as may be prescribed by the Secretary of State.”.

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**Marginal Citations**

**M19** 1968 c. 49.

**Status:**

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**Changes to legislation:**

There are currently no known outstanding effects for the Local Government etc. (Scotland) Act 1994, Chapter 6.