



Local Government etc. (Scotland) Act 1994

1994 CHAPTER 39

PART IV

MISCELLANEOUS

Tourism

172 Duty of Secretary of State to establish area tourist boards

- (1) The Secretary of State shall, in accordance with the provisions of this section and not later than 1st April 1996, by order make schemes for the establishment for such areas as may be specified in the order of area tourist boards (hereafter referred to as “boards”).
- (2) The principal function of a board shall be to carry on activities relating to tourism.
- (3) A scheme under this section shall—
 - (a) make provision for the constitution of a board;
 - (b) specify the area for which the board is established;
 - (c) provide that the board shall be a body corporate with a common seal;
 - (d) provide that the Secretary of State shall appoint the first members of the board and, from among those members, the first members of the controlling body of the board; and thereafter the members of such controlling body shall be appointed by the board;
 - (e) contain provision stating that it shall not, without the express or general consent given in writing of the Secretary of State (or such body as he may direct the board to consult), carry on activities relating to the promotion of tourism outside the United Kingdom; and
 - (f) make, where applicable and to such extent as the Secretary of State considers appropriate, transitional provision such as is mentioned in subsection (5) below.

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- (4) A scheme under this section may—
- (a) for the purposes of enabling a board to carry on its principal function, confer additional functions and powers on a board, including power to hold property and to employ staff;
 - (b) subject to the provisions of this section, provide who may be appointed to be members of the board;
 - (c) make provision for the payment of remuneration, allowances, pensions and gratuities to members of the board;
 - (d) subject to the provisions of this section and such conditions as may be specified in the scheme, enable a board to form or acquire a company;
 - (e) make provision for the board to regulate its own procedure;
 - (f) make provision for the board to appoint committees (including committees composed of persons who are not members of the board) and for the payment to persons appointed to such committees of such remuneration and allowances as the board may determine;
 - (g) make provision enabling the board to delegate any of its duties to any of its members who or committees which are authorised (generally or specifically) for the purpose;
 - (h) make provision as to the method of authentication of documents by the board; and
 - (i) make provision for such other matters as the Secretary of State thinks fit.
- (5) The transitional provision mentioned in paragraph (f) of subsection (3) above is provision for—
- (a) the revocation of any scheme made under section 90A of the 1973 Act (schemes for formation of area tourist organisations etc.) by an islands or district council whose area lies wholly or partly within the area of the proposed board;
 - (b) the winding up and dissolution of any area tourist organisation (whether a body corporate or not) formed by or for the purposes of any scheme made under the said section 90A;
 - (c) the transfer of any staff of any such area tourist organisation to such board established under this section as may be specified in the order; and
 - (d) the transfer to and, with effect from the date on which the scheme under this section takes effect, vesting in such board or boards established under this section as may be specified in the order of such property, rights and liabilities of any such tourist organisation as may be so specified.
- (6) The number of persons representative of a local authority appointed as members of the controlling body of a board (in this section referred to as “local authority members”) shall not exceed the number of subscribing members appointed as members of such a controlling body; and where local authority members are appointed the total number of voting rights accorded to them shall not exceed the total number of voting rights accorded to subscribing members.
- (7) For the purposes of subsection (6) above, a subscribing member is a member of a board who—
- (a) is such member of the board by reason of his—
 - (i) being resident, or carrying on business, in the area of the board; and

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- (ii) carrying on, or having an interest in, activities relating to tourism in the area of the board; and
 - (b) pays a membership subscription to the board,
and includes, where the subscribing member is a body corporate, a person representative of that body corporate.
- (8) A board shall not—
 - (a) be regarded as a servant or agent of the Crown;
 - (b) have any status, immunity or privilege of the Crown; or
 - (c) be exempt from any tax, duty, rate, levy or other charge whatsoever, whether general or local,and its property shall not be regarded as property of, or held on behalf of, the Crown.
- (9) A board shall not—
 - (a) form or promote, or join with any other person in forming or promoting, any body corporate (including a company (within the meaning of the Companies Act 1985)); or
 - (b) acquire the majority of the voting rights in such a body corporate,
unless the constitution of any such body corporate contains a provision stating that it shall not, without the express or general consent given in writing of the Secretary of State (or such body as he may direct the board to consult), carry on activities relating to the promotion of tourism outside the United Kingdom.
- (10) Before making a scheme under this section the Secretary of State shall consult—
 - (a) the Scottish Tourist Board; and
 - (b) any—
 - (i) district or islands council; and
 - (ii) new local authority,whose area lies wholly or partly within the area of the proposed board.
- (11) A scheme made by an order under this section shall not take effect before 1st April 1996 except in relation to—
 - (a) the constitution of a board;
 - (b) the carrying out by that board of any functions necessary to bring the scheme into operation on that date; and
 - (c) the winding up of an existing board.
- (12) An order under this section shall be made by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament.
- (13) In this section and in sections 173 and 174 of this Act “new local authority” means a council constituted under section 2 of this Act.

173 Power of Secretary of State to amend and revoke schemes

- (1) The Secretary of State may by order amend or revoke a scheme made under section 172 of this Act and the provisions of the said section 172 shall, so far as applicable, have effect in relation to any such amending or revoking scheme, subject to any necessary modifications and to the provisions of this section.
- (2) Without prejudice to the generality of the provisions of subsection (1) above, provision may be made in an amending or revoking scheme—

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- (a) for altering the area for which a board (hereafter referred to as the “original board”) is constituted under the scheme, whether or not that board is dissolved by virtue of the subsequent scheme;
 - (b) for the dissolution and winding up of an original board;
 - (c) for the transfer to such board as may be specified in the subsequent scheme of staff employed by the original board;
 - (d) for the transfer to and, with effect from the date on which the subsequent scheme takes effect, vesting in such board or boards as may be specified in that scheme of such property, rights and liabilities of the original board as may be so specified;
 - (e) for any other matters incidental to or consequential on the provisions of such scheme.
- (3) The power conferred on the Secretary of State by subsection (1) above may be exercised in relation to an amending or revoking scheme made or, as the case may be, approved by order under this section or section 174 of this Act.
- (4) Before making a scheme under this section the Secretary of State shall consult—
- (a) the bodies mentioned in section 172(10)(a) and (b)(ii) of this Act; and
 - (b) where the subsequent scheme alters the area of the original board, any new local authority whose area lies wholly or partly within such altered area.
- (5) An order under this section shall be made by statutory instrument; and such instrument shall, where it contains provision such as is mentioned in subsection (2)(a) above, be subject to annulment in pursuance of a resolution of either House of Parliament.

174 Power of local authority to submit amending schemes to Secretary of State

- (1) A new local authority whose area lies wholly or partly within the area of a board established by virtue of a scheme made under section 172 or 173 of this Act may, together with any other such authority whose area lies wholly or partly within the area of that board, submit to the Secretary of State for his approval a scheme for the amendment or revocation of such a scheme.
- (2) The provisions of sections 172 and 173 of this Act shall, so far as applicable, have effect in relation to an amending or revoking scheme made under this section subject to any necessary modifications and to the provisions of this section.
- (3) Before making an amending or revoking scheme under this section, the authority or authorities concerned shall consult the Scottish Tourist Board.
- (4) The power conferred on new local authorities by subsection (1) above may be exercised in relation to an amending or revoking scheme approved by order under this section.
- (5) The Secretary of State may by order approve any scheme submitted to him under this section.
- (6) An order under this section shall be made by statutory instrument; and such instrument shall, where it contains provision such as is mentioned in section 173(2)(a) of this Act, be subject to annulment in pursuance of a resolution of either House of Parliament.

175 Provision of assistance to boards by old authorities

District, islands and regional councils may provide financial and other assistance to any area tourist board established by a scheme made under section 172 of this Act whose area lies wholly or partly within the areas of such councils in respect of anything done in pursuance of subsection (11) of that section before 1st April 1996.

176 Powers to carry on tourism-related activities

For section 90 of the 1973 Act there shall be substituted the following section—

“90 Powers of local authority to carry on tourism-related activities

- (1) A local authority may—
- (a) provide, or encourage any other person to provide, facilities for leisure, conferences, trade fairs and exhibitions or improve, or encourage any other person to improve, any existing facilities for those purposes;
 - (b) promote, by advertisement or otherwise, facilities provided by that local authority (whether such facilities are owned by the authority or otherwise);
 - (c) organise, or assist others in the organisation of, and promote, by advertisement or otherwise, conferences, trade fairs and exhibitions;
 - (d) participate in the area tourist board whose area includes the area of that authority.
- (2) Subject to subsection (3) below, a local authority shall not have power to—
- (a) encourage persons, by advertisement or otherwise (and whether inside or outside the United Kingdom)—
 - (i) to visit their area for purposes relating to leisure; or
 - (ii) to hold conferences, trade fairs or exhibitions within their area;
 - (b) provide information about accommodation and facilities and services relating to leisure in their area or provide a booking service for such accommodation, to persons visiting their area;
 - (c) carry on such other activities relating to those mentioned in paragraphs (a) and (b) above as the Secretary of State may by regulations specify.
- (3) A local authority shall have power to do any of the things mentioned in paragraphs (a) to (c) of subsection (2) above—
- (a) in so far as it is necessary to do any of those things for the purposes of carrying on the activities mentioned in paragraphs (a) and (b) of subsection (1) above; or
 - (b) where the Secretary of State has given his prior consent (subject to such conditions as he considers necessary or expedient) in writing.
- (4) A local authority shall not, for the purposes of carrying on activities relating to tourism other than—
- (a) those such as are mentioned in paragraphs (a) to (d) of subsection (1) above; or
 - (b) by virtue of subsection (3) above, those such as are mentioned in subsection (2) above,
- form, acquire or join with any person or body corporate.

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- (5) Without prejudice to subsection (1) above, a local authority may contribute towards expenses incurred by any person—
- (a) doing anything mentioned in paragraph (a) of that subsection; or
 - (b) organising and holding a conference, trade fair or exhibition.
- (6) A local authority may appoint officers for the purposes of enabling the authority to carry out any of their powers under this section; and section 65 of this Act shall apply in relation to any officers appointed under this subsection subject to the following modifications—
- (a) references to “another local authority” shall be construed as if they were references to an area tourist board; and
 - (b) in subsection (2), the words from “but” to the end shall be omitted.
- (7) A statutory instrument containing regulations under subsection (2)(c) above shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (8) In this section—
- (a) “area tourist board” means a board established by virtue of an order made or, as the case may be, approved under section 172, 173 or 174 of the Local Government etc. (Scotland) Act 1994;
 - (b) “participate” means participation in any one or more of the following ways—
 - (i) a local authority or any person representative of a local authority being a member of the area tourist board whose area includes the area of that authority;
 - (ii) provision by a local authority to such a board of financial assistance for the purposes of the board’s carrying out activities relating to tourism;
 - (iii) provision by a local authority to such a board of staff; and
 - (c) section 171A(3) of this Act shall apply to this section with the substitution for any references to a person of references to an area tourist board.”.