



# Local Government (Scotland) Act 1947

1947 CHAPTER 43 10 and 11 Geo 6

## *Miscellaneous Provisions*

361— ..... F1  
376.

### **Textual Amendments**

**F1** Pts. I–VIII (ss.1–173), ss. 174–178, 179(2)(4)–(6), 180–186, 188–192, 194, 196–215, 217–220, 224–227, 230,239, 245, 246, 255–257, Pts. XIII–XVI (ss. 297–316), s. 317, 319, 320, Pts. XVIII–XIX (ss.321–335), 336–376, 209–215, 217–220, 224–227, 230, 239, 245, 246, 255–257 repealed by [Local Government \(Scotland\) Act 1973 \(c. 65\), s. 237\(1\), Sch. 29](#)

### **377 Minor consequential amendments of enactments.**

(1) Section three of the <sup>M1</sup>Convention of Royal Burghs (Scotland) Act, 1879 (which confers power on certain burghs to make annual payments to the Convention) shall have effect as if for the words “out of the police assessment or other rates leviable under the provisions of any general or local Act of Parliament” there were substituted the words “ as part of the general expenses of the burgh. ”

(2) ..... F2

(3) Section three hundred and seventy-two of the Burgh Police (Scotland) Act, 1892 (which relates to the recoupmnt of arrears of private improvement expenses) shall have effect as if for the words “take such expenses out of the burgh general assessment” there were substituted the words “ defray such expenses as part of the general expenses of the town council. ”

(4) ..... F3

(5) Section one hundred and sixty-eight of the Public Health (Scotland) Act, 1897 (which relates to the exemption from stamp duties of deeds and writings under that Act) shall

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have effect as if for the words “under this Act” there were substituted the words “ for the purposes of this Act. ”

- (6) ..... F4
- (7) ..... F5

(8) Any reference in any enactment to a local authority within the meaning of the <sup>M2</sup>Local Authorities Loans (Scotland) Act, 1891, or any such reference to the like effect shall be construed as a reference to a local authority within the meaning of this Act or any statutory authority, commissioners or trustees to whom section two hundred and seventy of this Act applies.

**Textual Amendments**

**F2** S. 377(2) repealed by [Building \(Scotland\) Act 1959 \(c. 24\), Sch. 10](#)

**F3** S. 377(4) repealed by [Inshore Fishing \(Scotland\) Act 1984 \(c. 26, SIF 52:1\), s. 10, Sch. 2](#)

**F4** S. 377(6) repealed by [Statute Law \(Repeals\) Act 1976 \(c. 16\), s. 1\(1\), Sch. 1 Pt. VIII](#)

**F5** S. 377(7) repealed by [Statute Law \(Repeals\) Act 1973 \(c. 39\), Sch. 1 Pt. XIII](#)

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**Modifications etc. (not altering text)**

**C1** The text of s. 377(1)(3)(5) is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and, except as specified, does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

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**Marginal Citations**

**M1** 42 & 43 Vict. c. 27.

**M2** 1891 c. 34.

378 ..... F6

**Textual Amendments**

**F6** S. 378 repealed by [Statute Law Revision Act 1950 \(c. 6\)](#)

**379 Interpretation.**

(1) In this Act, unless the context otherwise requires, the following expressions have the meanings hereby respectively assigned to them:—

- ..... F7
- “burgh” means a royal burgh, a parliamentary burgh, a burgh incorporated by Act of Parliament or a police burgh to which the <sup>M3</sup>Burgh Police (Scotland) Act, 1892, applies, and any other burgh created after the commencement of this Act under this Act or otherwise;
- “Burgh Police Acts” means the Burgh Police (Scotland) Acts, 1892 to 1911, and the Acts amending those Acts;
- “Burial Grounds Acts” means the <sup>M4</sup>Burial Grounds (Scotland) Act, 1855, and the Acts amending that Act;

..... F7

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“committee”, in relation to a local authority, means a committee to which is referred or delegated any functions vested in the authority;

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“emoluments” includes all salary, wages, fees and other payments paid or made to an officer as such for his own use, and the money value of any apartments, rations or other allowances in kind pertaining to his office, but does not include payments for overtime or any sum paid to him to cover travelling expenses, cost of office accommodation, assistance of deputies or clerical or other assistance;

“enactment” includes a provision in a provisional order confirmed by Parliament;

“fixed period”, in relation to money borrowed by a local authority, means the period within which the money is to be repaid;

“functions” includes powers and duties;

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..... F9  
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“joint board” means a body corporate, constituted for the purposes of a combination of local authorities under this Act or any other enactment or any statutory order, consisting exclusively of persons appointed by the local authorities;

“joint committee” means a body, not being a body corporate constituted for the purpose of a combination of local authorities under this Act or any other enactment or any statutory order, consisting exclusively of persons appointed by the local authorities;

“land” includes any right or servitude in, to or over land;

“lands and heritages” has the same meaning as in the Valuation Acts;

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“levy”, in relation to a rate, includes impose;

“local Act” includes a provisional order any under Act confirmed by Parliament;

“local authority” means a county council, a town council or a district council;

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“Minister” means the Secretary of State or other Minister or the General Board of Control or other Government Department, and includes the Electricity Commissioners;

“Minister concerned” means—

- (a) in relation to any transaction relating to land, the Minister concerned with the purpose for which the land is proposed to be acquired or for which the land is held;
- (b) in relation to a combination of local authorities or any joint committee or joint board, the Minister concerned with the purpose for which the combination or joint committee or joint board has or will have effect; and

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- (c) in any other case, the Minister concerned with the purpose or function in the case of which the provisions of the particular section of this Act apply or are sought to be applied;

and if any question arises under this Act as to which Minister is the Minister concerned the question shall be determined by the Treasury;

“occupier” means the tenant or sub-tenant or any person in the actual occupation of land, but does not include a lodger or a person in the occupation as tenant of a furnished house let for a period less than one year, but includes the person by whom such a furnished house is so let;

“officer” includes a servant;

“owner”, in relation to land, means the person who, for the time being, receives, or, if the land were let, would be entitled to receive the rent of the land, or who, in the case of land which is unlet, is entitled to occupy the land, and includes any trustee, tutor, curator, factor, agent or other person receiving the rent on behalf of any other person, and also a joint owner and a fiar;

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“prescribed” means prescribed by regulations, which regulations shall, unless otherwise provided, be made by the Secretary of State;

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“Public Libraries Acts” means the Public Libraries (Scotland) Acts, 1887 to 1920, and the Acts amending those Acts;

“public utility undertaking”, in relation to a local authority, means an undertaking for the provision of water, gas, electricity or transport or any other such revenue-producing service by the authority;

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“rateable valuation”, in relation to lands and heritages within an area, means the total of the rateable values of the said lands and heritages;

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“register”, in relation to a security of a local authority, means any register kept under Part XII of this Act or under any regulations made thereunder and includes any book kept by the authority for the purpose of recording therein entries with respect to the title to and notifications relating to the security;

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“resealed” in relation to a probate or letters of administration, means produced in the commissary court of the county of Midlothian and certified by the commissary clerk of that court or sealed with the seal of that court in accordance with any enactment regulating the same;

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“salary” includes allowances;

“sale” includes a sale in consideration of a ground annual or other periodical payment, and the expressions “sell” and “purchase” shall be construed accordingly;

“security”, in relation to a local authority, means a mortgage, a cash credit bond, a deposit receipt or other document of debt issued by the authority and the security created thereby (including stock created by the authority or a certificate in respect of such stock) whether under this Act or any other

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enactment or any statutory order or any enactment repealed by this Act, but does not include a local bond under section seventy-one of, and the Fourth Schedule to, the <sup>M5</sup>Housing (Scotland) Act, 1925, or under any enactment repealed by that Act, or a bond and disposition in security or other deed of security or document of debt affecting the common good of [<sup>F14</sup>an islands area or district], except a document of debt for money borrowed for common good purposes under a statutory borrowing power;

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“statutory borrowing power” means any power to borrow money conferred on a local authority by this Act or any other enactment or any statutory order or by any enactment repealed by this Act, but does not include the power of the [<sup>F15</sup>council of an islands area or district] to borrow for the purposes of the common good other than purposes for which the council are authorised to borrow by or under any enactment;

“statutory order” means any order, rule or regulation made under any enactment, and includes any scheme made under the <sup>M6</sup>Highlands and Islands (Medical service) Grant Act, 1913;

F7

“trustee securities” means investments in which trustees are by the law of Scotland authorised to invest, and includes, in the case of a local authority making an investment, any trustee securities created or issued by the authority themselves;

“Valuation Acts” means the <sup>M7</sup>Lands Valuation (Scotland) Act, 1854, and the Acts amending that Act;

“working capital”, in relation to a public utility undertaking, means money required from time to time to carry on the undertaking, other than money required to meet expenditure of a capital nature.

- (2) Where a county council exercise any function within a burgh, the burgh shall for the purposes of that function be deemed to be within the county.
- (3) Where in this Act provision is made for a consent, sanction, or approval by the Secretary of State or other Minister, such consent, sanction or approval may be given subject to such conditions as the Secretary of State or other Minister may determine, and failure to comply with any condition so imposed shall operate as if the consent, sanction or approval had not been given as respects the matter in which the failure occurred.
- (4) References in this Act to regulations made, approval given or other thing done by the Secretary of State shall be deemed to include references to regulations made, approval given or other thing done before the commencement of this Act by any Government Department whose functions have been transferred to and are at the commencement of this Act vested in the Secretary of State.
- (5) References in this Act to a local Act shall be construed as references to such Act only in its application to the local authority or area to which it applies.
- (6) Unless the context otherwise requires, any reference in this Act to an enactment contained in the Burgh Police Acts or in the Town Councils (Scotland) Acts, 1900 to 1923, shall be construed as including a reference to that enactment as applied or adopted by a local Act or by a resolution passed under statutory authority.

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- (7) Unless the context otherwise requires, any reference in this Act to any enactment shall be construed as a reference to that enactment as amended or extended by any subsequent enactment including this Act.

#### Textual Amendments

- F7** Definition repealed by [Statute Law \(Repeals\) Act 1976 \(c. 16\)](#), **Sch. 1 Pt. VIII** and definition of “gross annual valuation” expressed to be repealed by [Abolition of Domestic Rates Etc. \(Scotland\) Act 1987 \(c. 47, SIF 103:2\)](#), s. 34, **Sch. 6**
- F8** Definition of “electoral area” repealed by [Representation of the People Act 1949 \(c. 68\)](#), s. 175, **Sch. 9**
- F9** Definition repealed by [Statute Law \(Repeals\) Act 1976 \(c. 16\)](#), **Sch. 1 Pt. VIII** expressed to be repealed by [Abolition of Domestic Rates Etc. \(Scotland\) Act 1987 \(c. 47, SIF 103:2\)](#), s. 34, **Sch. 6**
- F10** Definition of “gross annual value” repealed by [Valuation and Rating \(Scotland\) Act 1956 \(c. 60\)](#), **Sch. 7 Pt. IV**
- F11** Definition of “Poor Law Acts” repealed by [National Assistance Act 1948 \(c. 29\)](#), **Sch. 7 Pt. III**
- F12** Definition repealed by [Abolition of Domestic Rates Etc. \(Scotland\) Act 1987 \(c. 47, SIF 103:2\)](#), s. 34, **Sch. 6**
- F13** Definition of “rateable value” repealed by [Valuation and Rating \(Scotland\) Act 1956 \(c. 60\)](#), **Sch. 7 Pt. IV**
- F14** Words substituted by [Local Government \(Scotland\) Act 1973 \(c. 65\)](#), s. 122, **Sch. 9 para. 34(a)**
- F15** Words substituted by [Local Government \(Scotland\) Act 1973 \(c. 65\)](#), s. 122, **Sch. 9 para. 34**

#### Modifications etc. (not altering text)

- C2** Functions of Minister of Transport now exercisable by Secretary of State: S.I. 1970/1681
- C3** [S. 379\(1\)](#) excluded (1.4.1995) by [1963 c. 12](#), s. 18 (as substituted by [1994 c. 39](#), s. 180(1), **Sch. 13 para. 60(4)**); S.I. 1994/3150, **art. 4(b)(c)(ii)**)
- C4** [S. 379\(1\)](#) modified by [Local Government \(Financial Provisions\) \(Scotland\) Act 1963 \(c. 12\)](#), s. 18; explained by [Local Government \(Scotland\) Act 1966 \(c. 51\)](#), s. 40

#### Marginal Citations

- M3** 1892 c. 55.
- M4** 1855 c. 68.
- M5** 1925 c. 15.
- M6** 1913 c. 26.
- M7** 1854 c. 91.

### 380 Interpretation as respects Crown rights.

The mention in this Act in relation to any particular matter of His Majesty’s royal prerogative shall not be held to prejudice or affect in relation to that or any other matter the general application of any rule of law with respect to any estate, right, power, privilege or exemption of the Crown.

### 381 Repeals.

- (1) ..... <sup>F16</sup>
- (i) nothing in this repeal shall affect any byelaw in force at the commencement of this Act, and any such byelaw which is of such a nature that it could have been made under this Act shall have effect as if made under this Act, and may be amended or revoked and enforced accordingly;

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- (ii) in the case of a byelaw which has been made before the commencement of this Act but which, by reason of its not having been confirmed or of the time for disallowance not having expired, is not in force at that date, the same proceedings may be taken and with the same effect as if this Act had not been passed;
- (iii) if at the commencement of this Act a casual vacancy has occurred in any office, and the vacancy has not been filled, the vacancy shall be filled in the same manner as if this Act had not been passed;
- (iv) nothing in this repeal shall affect any steps taken before the commencement of this Act with respect to the formation, alteration, combination or dissolution of special districts under any enactment repealed by this Act, and any such steps and any opposition thereto may be continued and followed forth as if this Act had not been passed;
- (v) nothing in this repeal shall affect any proceedings instituted before the commencement of this Act for the alteration of the boundaries of the area of a local authority or for the formation of a burgh under any enactment repealed by this Act, and such proceedings and any opposition thereto may be continued and followed forth as if this Act has not been passed;
- (vi) nothing in this repeal shall effect any legal proceedings instituted before the commencement of this Act under or by virtue of any enactment repealed by this Act, and such proceedings may be continued and appealed against as if this Act had not been passed;
- (vii) in so far as any appointment, agreement, order, scheme, rule or regulation made or resolution passed, direction or notice given, or other thing done under or by virtue of any enactment repealed by this Act could have been made, passed, given or done under or by virtue of a corresponding provision of this Act, it shall not be invalidated by this repeal but shall have effect as if it had been made, passed, given or done under or by virtue of that corresponding provision, and may be amended, revoked or enforced accordingly;
- (viii) notwithstanding anything in this section, the enactments repealed by this Act relating to the audit of accounts and other matters mentioned in Part X of this Act shall continue to have effect with respect to the accounts of local authorities for the period prior to the first financial year to the accounts for which the provisions of the said Part X apply;
- (ix) nothing in this repeal shall affect any rates levied by a local authority under any enactment repealed by this Act, or the liability of any person to the authority for payment of such rates, and any such rates may be recovered in like manner as if this Act had not been passed;
- (x) nothing in this repeal shall affect any requisition issued by a requisitioning authority within the meaning of Part XI of this Act to a rating authority within the meaning of that Part under any enactment repealed by this Act, or the liability of the rating authority to make payment to the requisitioning authority of the sum due thereunder, and such sum may be recovered in like manner as if this Act had not been passed;
- (xi) nothing in this repeal shall affect any statutory borrowing power exercised by a local authority under any enactment repealed by this Act in respect of which any money borrowed is outstanding at the commencement of this Act, or any security created by the authority in respect of such outstanding money, and such statutory borrowing power and security shall continue to have effect so far as regards such outstanding money as if the statutory borrowing power were contained in this Act, so however that all money borrowed under the said

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power shall be repaid within the period specified in the repealed enactment relating thereto;

- (xii) notwithstanding this repeal, any property or liabilities held or incurred or treated as incurred by a local authority immediately before the commencement of this Act shall continue to be held or incurred or treated as incurred by the authority for the same purposes and subject to the same trusts as they were immediately before the commencement of this Act, and any contract or other document which might have been enforced by or against a local authority immediately before the commencement of this Act shall continue to be enforceable by or against that authority;
  - (xiii) nothing in this repeal shall affect any compensation payable or any title to compensation under any enactment repealed by this Act, whether as originally enacted or as applied by any other enactment or statutory order.
- (2) Any resolution by a town council under section one hundred and nine of the <sup>M8</sup>Town Councils (Scotland) Act, 1900, shall cease to have effect, and any enactment in a local Act having the same effect as such a resolution is hereby repealed.
  - (3) Funds and accounts under this Act shall be deemed to be in continuation of the corresponding funds and accounts under the enactments repealed by this Act.
  - (4) Any document referring to any Act or enactment repealed by this Act shall be construed as referring to this Act or to the corresponding enactment, if any, in this Act.
  - (5) The mention of particular matters in this section shall not be held to prejudice or affect the general application of section thirty-eight of the <sup>M9</sup>Interpretation Act, 1889, with regard to the effect of repeals.

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**Textual Amendments**

**F16** Words repealed by [Statute Law Revision Act 1950 \(c. 6\)](#)

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**Marginal Citations**

**M8** [1900 c. 49.](#)

**M9** [1889 c. 63.](#)

**382 Short title, commencement and extent.**

- (1) This Act may be cited as the Local Government (Scotland) Act, 1947, and shall come into operation on the first day of October, nineteen hundred and forty-seven.
- (2) This Act shall, except where otherwise expressly provided, extend only to Scotland.



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