
STATUTORY INSTRUMENTS

1995 No. 2500 (S.182)

LOCAL GOVERNMENT, SCOTLAND

**The Local Government Property
Commission (Scotland) Order 1995**

Made - - - - *25th September 1995*
Laid before Parliament *26th September 1995*
Coming into force - - *17th October 1995*

The Secretary of State, in exercise of the powers conferred on him by section 19(1) and (2) of the Local Government etc. (Scotland) Act 1994⁽¹⁾ and those provisions as applied by section 138 of that Act, and of all other powers enabling him in that behalf, and after carrying out such consultation as he considered appropriate, hereby makes the following Order:

Citation, commencement and interpretation

1.—(1) This Order may be cited as the Local Government Property Commission (Scotland) Order 1995 and shall come into force on 17th October 1995.

(2) In this Order, “the Property Transfer Order” means the Local Authorities (Property Transfer) (Scotland) Order 1995⁽²⁾.

Establishment of Property Commission

2.—(1) There shall be established a body to be known as “the Local Government Property Commission (Scotland)” (in this Order referred to as “the Property Commission”) for the purpose of—

- (a) advising authorities on matters relating to property to be transferred from existing local authorities to new authorities⁽³⁾;
- (b) advising the Secretary of State on the general principles on which such property should be transferred;
- (c) advising the Secretary of State as to the need to make special provision for the transfer and vesting of particular items of property;

(1) 1994 c. 39.

(2) S.I. 1995/2499.

(3) Section 19 of the Local Government etc. (Scotland) Act 1994 is applied to the Scottish Children’s Reporter Administration and to the Principal Reporter (established under section 127 of that Act) by section 138(1) of that Act with the modifications specified at section 138(2) of that Act.

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- (d) making determinations, directions and nominations for purposes of transfer of property under the Property Transfer Order; and
- (e) doing anything (whether or not involving expenditure of money) which is calculated to facilitate, or is conducive or incidental to the functions specified at sub-paragraphs (a) to (d) above, including, without prejudice to the foregoing generality, valuing or instructing or obtaining valuations of any relevant property.

(2) The Schedule to this Order shall have effect with respect to the constitution and membership, the appointment and removal from office of the chairman and members, the employment of staff and the remuneration and superannuation of members and staff of the Property Commission established by paragraph (1) above.

St Andrew's House,
Edinburgh
25th September 1995

Michael B Forsyth
One of Her Majesty's Principal Secretaries of
State, Scottish Office

SCHEDULE

Article 2(2)

THE LOCAL GOVERNMENT PROPERTY COMMISSION (SCOTLAND)

Status

1. The Property Commission shall be a body corporate and shall have a common seal.
2. The Property Commission shall not—
 - (a) be regarded as a servant or agent of the Crown;
 - (b) have any status, immunity or privilege of the Crown;
 - (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.

Membership

3. The Property Commission shall consist of not less than four and not more than eight members appointed by the Secretary of State; and the Secretary of State shall appoint one of those members to be chairman and may appoint another to be deputy chairman.

- 4.—(1) The Secretary of State shall satisfy himself—
 - (a) before he appoints a person to be a member of the Property Commission under paragraph 3 above, that the person has no financial or other interest likely to affect prejudicially the proper performance of his functions as a member; and
 - (b) from time to time, that each person so appointed continues, and has continued, to have no such interest.

(2) A member of the Property Commission who is directly or indirectly interested in any matter brought up for consideration at a meeting of the Property Commission shall disclose the nature of his interest to the meeting, which interest shall be recorded in the minutes of that meeting.

(3) Where such a disclosure is made, that member shall not take part in any deliberation or decision of the Property Commission with respect to that matter.

5. The Secretary of State may remove from office a member of the Property Commission appointed under paragraph 3 above if he is satisfied that the member—

- (a) has had his estate sequestrated, has made an arrangement with his creditors, has been adjudged bankrupt or has granted a trust deed or a composition contract for his creditors;
- (b) is incapacitated by physical or mental illness;
- (c) has been absent from meetings of the Property Commission for a period longer than three months without the permission of the Property Commission; or
- (d) is otherwise unable or unfit to discharge his functions as a member or is unsuitable to continue as a member.

Remuneration and allowances of members

6.—(1) There shall be paid to each member of the Property Commission such remuneration and allowances as may from time to time be determined by the Secretary of State.

(2) There may be paid to or in respect of any member such pension, allowance or gratuity on his retirement or death or such payments towards the provision of such pension, allowance or gratuity, as the Secretary of State may, with the consent of the Treasury, determine.

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(3) If a person, appointed under paragraph 3 above, ceases to be a member of the Property Commission, and it appears to the Secretary of State that there are special circumstances which make it right that he should receive compensation, the Secretary of State may, with the consent of the Treasury, require the Property Commission to pay to that person a sum of such amount as the Secretary of State may, with the consent of the Treasury, determine.

Appointment and Remuneration of Officers

7.—(1) The Property Commission may appoint, on such terms and conditions as it may, with the approval of the Secretary of State given with the consent of the Treasury, determine, such officers as it thinks fit.

(2) Without prejudice to sub-paragraph (1) above, in the case of such of its officers or former officers as the Secretary of State may, with the consent of the Treasury, determine—

- (a) there may be paid such pensions, allowances or gratuities to or in respect of those officers; or
- (b) there may be made such payments towards provision of such pensions, allowances or gratuities; or
- (c) there may be provided and maintained such schemes (whether contributory or not) for the payment of such pensions, allowances or gratuities,

as the Secretary of State may, with such consent, determine.

(3) The reference in sub-paragraph (2) above to pensions, allowances or gratuities in respect of officers of the Property Commission includes a reference to pensions, allowances or gratuities by way of compensation to or in respect of any such officer who suffers loss of office or employment or loss or diminution of emoluments.

Proceedings

8.—(1) Subject to any directions given under section 19(3) of the Local Government etc. (Scotland) Act 1994, the Property Commission may regulate its own procedure.

(2) The proceedings of the Property Commission shall not be invalidated by any vacancy among its members or by any defect in the appointment of any of its members or by any failure to comply with paragraph 4(2) above.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order establishes a Local Government Property Commission (Scotland) under section 19 of the Local Government etc. (Scotland) Act 1994 for the purpose, in connection with the reorganisation of Scottish local government taking effect as from 1st April 1996, of advising authorities on matters relating to property to be transferred, advising the Secretary of State on the general principles of such transfers and on the need to make provision for individual cases and making determinations, directions and nominations in terms of the Local Authorities (Property Transfer) (Scotland) Order 1995 (S.I.1995/2499).

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The Schedule to the Order provides for the constitution and membership of the Property Commission, the appointment and removal from office of its chairman and members, employment of staff and remuneration and superannuation of members and staff.