

**Local Government (Scotland) Act 1973 (c.65)
Sections 12 to 28, 210, 233, 235, Schedules 4 to 6**

As amended by:

- Criminal Procedure (Scotland) Act 1975 (c.21)
- House of Commons Disqualification Act 1975 (c.24)
- Local Government (Scotland) Act 1975 (c.30)
- Education (Scotland) Act 1980 (c.44)
- The Transfer of Functions (Minister for the Civil Service and Treasury) Order 1981 (S.I. 1981/1670)
- Housing and Planning Act 1986 (c.63)
- Local Government etc. (Scotland) Act 1994 (c.39)
- Local Government (Gaelic Names) (Scotland) Act 1997 (c.6)
- The Scotland Act 1998 (Consequential Modifications) (No.2) Order 1999 (S.I. 1999/1820)
- Local Governance (Scotland) Act 2004 (asp 9)
- Local Electoral Administration and Registration Services (Scotland) Act 2006 (asp 14)

Note:

- The Scotland Act 1998 transferred the functions of the Secretary of State to Scottish Ministers.

Local Government (Scotland) Act 1973

PART II

CHANGES IN LOCAL GOVERNMENT AREAS

Proposals by Local Government Boundary Commission for Scotland

12 *Local Government Boundary Commission for Scotland*

(1) There shall be a Local Government Boundary Commission for Scotland (in this Part of this Act referred to as “the Boundary Commission”) who shall carry out the functions conferred on them by or under this Act.

(2) The provisions of Schedule 4 to this Act shall have effect with respect to the Boundary Commission.

13 *Proposals for changes in local government areas*

The Boundary Commission may, in consequence of a review conducted by them under this Part of this Act, make proposals to the Secretary of State for effecting changes appearing to the Commission desirable in the interests of effective and convenient local government by any of the following means or any combination of those means (including the application of any of the following paragraphs to an area constituted or altered under any of those paragraphs):

- (a) the alteration of a local government area;
- (b) the constitution of a new local government area;

- (c) the abolition of a local government area;
- (d) a change of electoral arrangements for any local government area which is either consequential on any change in local government areas proposed under this section or is a change (hereafter in this Part of this Act referred to as a “substantive change”) which is independent of any change in local government areas so proposed.

14 Duty and power to review local government areas

(1) Subject to sections 15 and 16 of this Act, it shall be the duty of the Boundary Commission, not less than eight nor more than twelve years after 1st April 1996 and thereafter at intervals of not less than eight nor more than twelve years from the submission of the last report of the Commission on the previous review under this subsection, to review all local government areas for the purpose of considering whether to make such proposals in relation to all or any or any part of those areas as are authorised by section 13 of this Act and what proposals, if any, to make, and the Commission shall formulate any such proposals accordingly.¹

(2) Without prejudice to subsection (1) above, the Boundary Commission may at any time, subject to sections 15 and 16 of this Act, review all or any or any part of the local government areas for the purpose of considering whether to make such proposals in relation to them as are authorised by section 13 of this Act, and what proposals, if any, to make, and the Commission shall formulate any such proposals accordingly.

(3) If the Boundary Commission receive a request from a local authority or from any person that they should conduct a review under subsection (2) above with respect to any local government area in which the authority or person appears to the Commission to have an interest, the Commission shall consider the request.

(4) In any case where the Secretary of State has made an order under section 1 of the New Towns (Scotland) Act 1968 designating any land as, or as an extension of, a new town and the area of the new town as so designated or so extended is not wholly comprised within one district, he shall, as soon as practicable after the order has become operative, send to the Boundary Commission a notice stating that the order is in operation and specifying the districts within which that area is situated, and on receipt of such a notice it shall be the duty of the Commission, subject to section 15(3) of this Act, to review the areas of those districts for the purpose of considering whether to make such proposals in relation to them as are authorised by section 13 of this Act and what proposals, if any, to make, and the Commission shall formulate any such proposals accordingly.

15 Powers of Secretary of State in relation to reviews

(1) The Secretary of State may by direction given to the Boundary Commission vary the length of any interval specified in section 14(1) of this Act either as respects the whole review or as respects any particular case or cases.

¹ Subsection 14 (1) amended by Local Government etc. (Scotland) Act 1994

(2) Subject to section 16 of this Act, the Secretary of State may direct the Boundary Commission to conduct a review of the local government areas as a whole, or of any one or more such areas or parts thereof, for the purpose of considering whether to make such proposals in relation to the areas as are authorised by section 13 of this Act and what proposals, if any, to make, and the Commission shall formulate any such proposals accordingly.

(3) The Secretary of State may direct the Boundary Commission not to undertake during a specified period a review of any one or more local government areas or parts of such areas which they have the duty or power to review under section 14 of this Act.

(4) The Secretary of State may give directions to the Boundary Commission for their guidance in conducting reviews under this Part of this Act and in making proposals in consequence thereof, and the directions may relate to all such reviews or to any particular review or class of review.

(5) A direction shall not be given under subsection (4) above with respect to any review conducted under this Part of this Act except after consultation with associations appearing to the Secretary of State to be representative of local authorities.

(6) The Secretary of State may give directions to the Boundary Commission with respect to the order in which areas are to be reviewed by them under sections 14 and 15(2) of this Act.

16 Substantive changes in electoral arrangements

(1) No review shall be conducted under section 14 or 15 of this Act for the purpose of making proposals for a substantive change of electoral arrangements, but the following provisions of this section shall have effect with respect to the making of such proposals.

(2) It shall be the duty of the Boundary Commission not less than eight nor more than twelve years after the submission of the report on the first review of electoral arrangements for a local government area under section 4(1) of the Local Governance (Scotland) Act 2004 (asp 9) and thereafter, so far as is reasonably practicable, at intervals of not less than eight nor more than twelve years from the submission of the last report of the Commission under this subsection in relation to that area, to review the electoral arrangements for that area for the purpose of considering whether to make proposals to the Secretary of State for a substantive change in those arrangements and what proposals, if any, to make, and the Commission shall formulate any such proposals accordingly.²

(3) Without prejudice to subsection (2) above, the Boundary Commission may at any time, whether at the request of a local authority or otherwise, review the electoral arrangements for a local government area for the purpose of considering whether to make proposals to the Secretary of State for a

² Subsection 16 (2) amended by Local Government etc. (Scotland) Act 1994 and Local Governance (Scotland) Act 2004

substantive change in those arrangements and what proposals, if any, to make and the Commission shall formulate any such proposals accordingly.

17 Commission's reports and their implementation

(1) Where the Boundary Commission have —

(a) in accordance with section 14 or 15 of this Act been conducting a review of any area; or

(b) in accordance with section 16 of this Act been conducting a review of electoral arrangements,

on which they have a power or duty to formulate proposals to the Secretary of State, and in either case the Commission are of the opinion that they are in a position to submit to the Secretary of State a report on the review or any part of it, they shall, not later than the expiry of any time limit applicable to the review in question in terms of section 14, 15 or 16 of this Act, submit a report to him on the review or that part, together with the proposals they have formulated thereon, or, as the case may be, a notification that they have no proposals to put forward thereon.

(2) The Secretary of State may if he thinks fit by order give effect to any proposals made to him by the Boundary Commission, either as submitted to him or with modifications:

Provided that an order giving effect to any such proposals shall not be made until after the expiry of six weeks from the day on which those proposals were submitted to him.

(3) If in relation to any area the Secretary of State decides to make an order under this section giving effect with modifications to proposals made to him by the Boundary Commission, he may, if he thinks fit, direct the Commission to conduct a further review of that area or, as the case may be, of its electoral arrangements and to make a report to him containing revised proposals with respect to that area or those arrangements within a time specified in the direction.

(4) Where, following the submission of any report by the Commission under this section, the Secretary of State decides to make an order thereunder which abolishes or alters the boundaries of any local government area, he shall lay any such report before Parliament together with the order, and any statutory instrument containing such an order shall be subject to annulment in pursuance of a resolution of either house of Parliament.

Conduct of Reviews

18 Procedure for reviews

(1) Where the Boundary Commission propose to conduct a review under the foregoing provisions of this Part of this Act, they shall take such steps as they think fit to secure that persons who may be interested in the review are informed of the proposal to conduct it and of any directions of the Secretary of State which are relevant to it.

- (2) In conducting any such review, the Boundary Commission shall —
- (a) consult —
 - (i) the council of any local government area affected by the review, and such other local authorities, community councils and public bodies as appear to them to be concerned;
 - (ii) any bodies representative of staff employed by local authorities who have asked the Boundary Commission to consult them; and
 - (iii) such other persons as they think fit;
 - (aa) at least two months before taking any steps under paragraph (b) below to inform other persons of any draft proposals or any interim decision not to make proposals, inform the council of any local government area affected by the review of those proposals or that decision;
 - (ab) before taking any such steps, take into consideration any representation made to them by such a council during the period of two months beginning on the day on which the council is informed under paragraph (aa);³
 - (b) take such steps as they think fit for seeing that persons who may be interested in the review are informed of any draft proposals or any interim decision not to make proposals, and of the place or places where those proposals or that decision can be inspected;
 - (c) in particular, deposit copies of those proposals or that decision at the offices of the council of any local government area which may be affected thereby and require any such council to keep the copies available for inspection at their offices for a period specified in the requirement; and
 - (d) take into consideration any representation made to them within that period.
- (2A) The Scottish Ministers may give directions to —
- (a) the Boundary Commission,
 - (b) the council of any local government area affected by a review,
- in relation to consultation under subsection (2)(a) above.
- (2B) Such directions may be given generally or in relation to particular reviews or particular aspects of reviews.⁴

³ Subsection 18(2)(aa) and 18(2)(ab) inserted by Local Governance (Scotland) Act 2004

⁴ Subsection 18(2A) and 18(2B) inserted by Local Governance (Scotland) Act 2004

(3) Where the Boundary Commission make a report under this Part of this Act they shall —

(a) take such steps as they think fit for securing that persons who may be interested in the report are informed of it and of the place or places where it can be inspected;

(b) in particular, deposit copies of the report at the offices of the council of any local government area which may be affected thereby and require any such council to keep the copies available for inspection at their offices until the expiration of six months after the making of an order giving effect, with or without modifications, to any proposals contained in the report, or after a notification by the Commission that they have no proposals to put forward or, as the case may be, by the Secretary of State that he does not propose to give effect to the proposals of the Commission.

(4) Subject to the foregoing provisions of this section, the procedure of the Boundary Commission in conducting any review under this Part of this Act shall be such as they may determine.

19 *Local inquiries*

(1) The Boundary Commission may cause a local inquiry to be held with respect to any review carried out by them under this Part of this Act.

(2) Subsections (3) to (6) and (8) of section 210 of this Act shall apply in relation to an inquiry held under this section with the substitution for references to a Minister of references to the Boundary Commission.

Supplementary Provisions

20⁵

21 *Delegation of functions of Commission*

(1) The Boundary Commission may appoint one or more members of the Commission —

(a) to hold any local inquiry or to carry out any consultation or investigation which the Commission are required or authorised to hold or carry out under this Act; and

(b) to report to the Commission accordingly.

(2) At the request of the Boundary Commission the Secretary of State may appoint one or more persons as assistant commissioners for all or any of the purposes specified in subsection (1)(a) and (b) above.

(3) The appointment of an assistant commissioner under subsection (2) above —

⁵ Section 20 repealed by Local Governance (Scotland) Act 2004

- (a) shall be for such period or for such purpose or purposes as may be specified in the terms of his appointment; and
- (b) shall be on such terms and conditions as to remuneration and otherwise as may be determined by the Secretary of State with the approval of the Treasury. ⁶

22 Restriction on promotion of private legislation for changing local government areas, etc.

No local authority shall have power to promote private legislation for forming or abolishing any local government area or for altering, or altering the status or electoral arrangements of, any local government area.

23 Change of name of local government area ⁷

(1) The council of a local government area may, by a resolution passed by not less than two-thirds of the members voting thereon at a meeting of the council specially convened for the purpose with notice of the object, change the name of the area.

(1A) Where a council so change the name of their area into Gaelic, they may also, by a resolution passed in accordance with subsection (1) above and notwithstanding sections 2(3) and 3(1)(a) of the Local Government etc. (Scotland) Act 1994, decide that their name shall be “Comhairle” with the addition of the name of their area.

(1B) A council which have so changed their name into Gaelic may, by a resolution passed in accordance with subsection (1) above, change it back into English. ⁸

(2) Notice of any change of name made under this section —

- (a) shall be sent by the council concerned to the Secretary of State, to the Director General of the Ordnance Survey and to the Registrar General of Births, Deaths and Marriages for Scotland; and
- (b) shall be published in such manner as the Secretary of State may direct.

(3) A change of name made in pursuance of this section shall not affect any rights or obligations of any council, authority or person, or render defective any legal proceedings; and any legal proceedings may be commenced or continued as if there had been no change of name.

24 Consequential and transitional arrangements relating to Part II

(1) The Secretary of State may by regulations⁹ of general application make such incidental, consequential, transitional or supplementary provision as may

⁶ Subsection 21(3)(b) amended by S.I. 1981/1670

⁷ Section 23 amended by Local Government etc. (Scotland) Act 1994

⁸ Subsections 23(1A) and (1B) inserted by Local Government (Gaelic Names) (Scotland) Act 1997

⁹ Regulations made by The Local Government Area Changes (Scotland) Regulations 1977 (SI 1977/8)

appear to him to be necessary or proper for the purposes or in consequence of orders under this Part of this Act or for giving full effect thereto; and nothing in any other provision of this Act shall be construed as prejudicing the generality of this subsection.

(2) Regulations under this section may apply, with or without modifications, or extend, exclude or amend, or repeal or revoke, with or without savings, any provision of a local Act or any instrument made under an Act.

(3) A statutory instrument containing regulations under this section shall be subject to annulment in pursuance of a resolution of either House of Parliament.

(4) An order under this Part of this Act may include the like provision in relation to the order as may be made by regulations of general application under this section by virtue of subsections (1) and (2) above; and nothing in any other provision of this Act shall be construed as prejudicing the generality of this subsection.

(5) Any such order may also include provision with respect to—¹⁰

(a) the name of any altered area;

(b) the constitution and election of public bodies in any area affected by the order;

(c) the retiral of existing councillors for electoral wards which have been abolished or the assignment of such councillors and of other existing councillors to new or altered electoral wards, and the first election of councillors for any new or altered electoral wards;

(d) without prejudice to paragraph (c) above, the holding of a fresh election of councillors for all electoral wards in the local government area in question in a case where substantial changes have been made to some of those wards;

(e) the abolition or establishment, or the restriction or extension, of the jurisdiction of any public body in or over any part of the area affected by the order;

(f) the register of electors to be used at any election of councillors for any electoral ward affected by the order.

(6) In this section and in section 25 of this Act, “public body” means a local authority, joint board or joint committee.

25 *Transitional agreements as to property and finance*

(1) Subject to any regulations made under section 24 of this Act and to the provisions of any order made under this Part of this Act, any public bodies affected by the alteration, abolition or constitution of any area by an order

¹⁰ Subsection 24 (5) amended by Local Government etc. (Scotland) Act 1994

under this Part of this Act may from time to time make agreements with respect to any property, income, rights, liabilities and expenses (so far as affected by the alteration, abolition or constitution) of, and any financial relations between, the parties to the agreement.

(2) The agreement may provide —

(a) for the transfer or retention of any property, rights and liabilities, with or without conditions, and for the joint use of any property;

(b) for the making of payments by either party to the agreement in respect of property, rights and liabilities so transferred or retained, or of such joint use, and in respect of the remuneration or compensation payable to any person; and

(c) for the making of any such payment either by way of a capital sum or of a terminable annuity.

(3) In default of agreement as to any matter, the matter shall be referred to the arbitration of a single arbiter agreed on by the parties, or in default of agreement appointed by the Secretary of State, and the award of the arbiter may provide for any matter for which an agreement under this section might have provided; but the provisions of section 3 of the Administration of Justice (Scotland) Act 1972 (power of arbiter to state case to Court of Session) shall not apply in relation to an arbitration under this section.

(4) Any sum required to be paid by a public body in pursuance of an agreement or award under this section shall be defrayed in such manner as may be specified in the agreement or award and, failing the agreement or award so specifying, in such manner as the public body making the payment may determine.

(5) Any capital sum received by a public body in pursuance of an agreement or award under this section shall be treated as capital and shall be applied with the sanction of the Secretary of State either in the repayment of capital debt or for any other purpose for which capital money may be applied.

26 *Variation and revocation of orders under Part II*

(1) The power conferred by section 233 of this Act to vary and revoke orders under this Act shall, in the case of orders under this Part of this Act, apply only in relation to any supplementary provision contained in any such order, and an order varying or revoking any such provision shall only be made after compliance with subsections (2) and (3) below.

(2) When the Secretary of State proposes to make any such varying or revoking order he shall prepare a draft of the order, shall send copies of the draft to such local or public authorities and community councils as appear to him to be concerned, and shall give public notice, in such manner as appears to him sufficient for informing persons likely to be concerned, that the draft has been prepared, that a copy of the draft is available for inspection at one or more places specified in the notice and that representations with respect to the draft may be made to him within two months of the publication of the notice.

(3) The Secretary of State shall consider any representations duly made with respect to the draft and may, if he thinks fit, make an order either in the form of the draft or subject to modifications.

(4) The Secretary of State may cause a local inquiry to be held with respect to a draft order under this section.

(5) In this section “supplementary provision” means any such provision as could be made by an order under this part of this Act by virtue of section 24 or 215 of this Act.

27 Consultation with Boundary Commission on schemes for community councils

In considering the framing or approval of a scheme or of an amendment to a scheme under Part IV of this Act, a local authority or the Secretary of State may consult the Boundary Commission on any matter relating to the boundaries of the area of a community council.

28 Supplementary

(1) In this Part of this Act —

“electoral arrangements” means, in relation to a local government area, the number of councillors of the council for that area, the number and boundaries of the electoral wards into which that area is for the time being divided for the purpose of the election of the councillors, the number of councillors for each electoral ward and the designation of any electoral ward; ¹¹

“local government area” means the area of a local authority; ¹²

“substantive change” has the meaning assigned to it by section 13(d) of this Act.

(2) In considering the electoral arrangements for local government areas for the purposes of this Part of this Act or section 4 (1) of the Local Governance (Scotland) Act 2004 (asp 9), the Secretary of State and the Boundary Commission shall so far as is reasonably practicable comply with the rules set out in Schedule 6 to this Act, and the said arrangements shall be in accordance with the provisions of section 1 ¹³ of the Local Governance (Scotland) Act 2004 (asp 9) ¹⁴

(3) ¹⁵

¹¹ Subsection 28 (1) definition of “electoral arrangements” amended by Local Government etc. (Scotland) Act 1994 and Local Governance (Scotland) Act 2004

¹² Subsection 28 (1) definition of “local government area” amended by Local Government etc. (Scotland) Act 1994

¹³ Section 1 specifies that the number of councillors for each ward shall be either 3 or 4

¹⁴ Subsection 28 (2) amended by Local Governance (Scotland) Act 2004

¹⁵ Subsection 28 (3) repealed by Local Electoral Administration and Registration Services (Scotland) Act 2006

PART XII

MISCELLANEOUS, GENERAL AND TRANSITIONAL

Miscellaneous

[section 209 not reproduced here]

210 Power to direct inquiries

(1) Where any Minister is authorised by this Act to determine any difference, to make or confirm any order, to frame any scheme, or to give any consent, confirmation, sanction or approval to any matter, or otherwise to act under this Act, or where the Secretary of State is authorised to hold an inquiry, either under this Act or under any other enactment relating to the functions of a local authority, he may cause a local inquiry to be held. ¹⁶

(2) Except as otherwise provided in any enactment, the Minister may appoint an officer of his Department or any other person to conduct the inquiry and to report thereon to him.

(3) The person appointed to hold the inquiry shall cause notice of the time and place of the inquiry to be given to the bodies and persons appearing to him to be interested.

(4) For the purpose of any such local inquiry, the person appointed to hold the inquiry may by notice in writing require any person to attend, at a time and place stated in the notice, to give evidence or to produce any books or other documents in his custody or under his control which relate to any matter in question at the inquiry, and may take evidence on oath, and for that purpose administer oaths:

Provided that -

(a) no person shall be required, in obedience to such a notice, to attend to give evidence or to produce any such books or other documents, unless the necessary expenses of his attendance are paid or tendered to him; and

(b) nothing in this subsection shall empower the person holding the inquiry to require any person to produce any book or document or to answer any question which he would be entitled on the ground of privilege or confidentiality, to refuse to produce or to answer if the inquiry were a proceeding in a court of law.

(5) Any person who refuses or wilfully neglects to attend in obedience to a notice under this section to give evidence or who wilfully alters, suppresses, conceals, destroys or refuses to produce any book or other document which he is required or is liable to be required to produce for the purposes of this section shall be liable on summary conviction to a fine not exceeding level 1

¹⁶ Subsection 210(1) amended by Local Government (Scotland) Act 1975

on the standard scale or to imprisonment for a term not exceeding three months, or to both.¹⁷

(6) The Minister causing the inquiry to be held may, if he thinks fit, pay such expenses of witnesses and such expenses of or concerning the production of any books or other documents as to him seems reasonable, and such expenses shall be deemed to be part of the expenses of the inquiry.

(7)¹⁸ The Minister may make orders as to the expenses incurred -

(a) by the Minister in relation to -

(i) the inquiry;

(ii) arrangements made for an inquiry which does not take place; and

(b) by the parties to the inquiry,

and as to the parties by whom any of the expenses mentioned in paragraphs (a) and (b) above shall be paid.

(7A) What may be recovered by the Minister is the entire administrative expense of the inquiry, so that, in particular -

(a) there shall be treated as expenses incurred in relation to the inquiry such reasonable sum as the Minister may determine in respect of the general staff expenses and overheads of his department, and

(b) there shall be treated as expenses incurred by the Minister holding the inquiry any expenses incurred in relation to the inquiry by any other Minister or Government department and, where appropriate, such reasonable sum as that Minister or department may determine in respect of general staff expenses and overheads.

(7B) The Minister may by regulations prescribe for any description of inquiry a standard daily amount and where an inquiry of that description does take place what may be recovered is -

(a) the prescribed standard amount in respect of each day (or an appropriate proportion of that amount in respect of a part of a day) on which the inquiry sits or the person appointed to hold the inquiry is otherwise engaged on work connected with the inquiry,

(b) expenses actually incurred in connection with the inquiry on travelling or subsistence allowances or the provision of accommodation or other facilities for the inquiry, and

¹⁷ Subsection 210(5) amended by Criminal Procedure (Scotland) Act 1975

¹⁸ Subsections 210(7), (7A), (7B) and (8) amended and inserted by Housing and Planning Act 1986

(c) any expenses attributable to the appointment of an assessor to assist the person appointed to hold the inquiry, and

(d) any legal expenses or disbursements incurred or made by or on behalf of the Minister in connection with the inquiry.

(8) Where the Minister has made an order under subsection (7) of this section requiring any party to pay expenses to him he shall certify the amount of the expenses, and any amount so certified shall be a debt due by that party to the Crown and shall be recoverable accordingly.

(9) This section shall not apply in the case of a local inquiry held under any enactment where the enactment contains provisions with regard to such inquiries.

General

[sections 211 to 232 not reproduced here]

233 Orders, rules and regulations

(1) Any power to make orders, rules or regulations conferred on any Minister by any provision of this Act, other than section 104(1), 210(7), 211 or 221 shall be exercisable by statutory instrument.¹⁹

(2) Any order under this Act may be varied or revoked by a subsequent order made in the like manner and subject to the same provisions.

(3) An order made by a Minister under this Act may contain such incidental, consequential and supplemental provisions as appear to the Minister by whom the order is made to be necessary or proper for bringing the order into operation and giving full effect thereto.

[section 234 not reproduced here]

235 General provisions as to interpretation

(1) In this Act, except where the context otherwise requires -

"appropriate Minister", with respect to any matter, means the Minister in charge of any Government Department concerned with that matter; but the validity of any order or regulation purporting to be made by any Minister by virtue of a power conferred on the appropriate Minister by this Act shall not be affected by any question as to whether or not that Minister was the appropriate Minister for the purpose;

"area"²⁰

¹⁹Subsection 233(1) amended by the Housing and Planning Act 1986

²⁰ Definitions of "area", "college council", "school council", "education committee" and "water authority" deleted by Local Government etc. (Scotland) Act 1994

"education authority", "educational establishment", "further education" and "school" have the same meanings as in the Education (Scotland) Act 1980;²¹

"electoral ward" shall be construed in accordance with section 5 of the Local Government etc. (Scotland) Act 1994;²²

"enactment" includes an order, regulation, rule or other instrument having effect by virtue of an Act;

"existing", in relation to any authority, means that authority as they existed immediately before the passing of this Act;

"financial year" has, except in section 98, the meaning assigned to it by section 96(5) of this Act;

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

"land" includes land covered with water and any interest right or servitude in or over land;

"local authority" means a council constituted under section 2 of the Local Government etc. (Scotland) Act 1994;²³

"local statutory provision" means a provision of a local Act (including an Act confirming a provisional order) or a provision of a public general Act passed with respect only to the whole or part of an existing local government area or a provision of an instrument made under any such local or public general Act or of an instrument in the nature of a local enactment made under any other Act;

"new", in relation to any authority, means that authority as established by or under this Act;

"1947 Act" means the Local Government (Scotland) Act 1947;

"prescribed" means prescribed by regulations made by the Secretary of State;

"rating authority" shall be construed in accordance with section 30 of the Local Government etc. (Scotland) Act 1994;²⁴

²¹ Amended by Education (Scotland) Act 1980

²² Definition of "electoral area" replaced by "electoral ward" by Local Government etc. (Scotland) Act 1994

²³ Definition of "local authority" amended by Local Government etc. (Scotland) Act 1994

²⁴ Definition of "rating authority" amended by Local Government etc. (Scotland) Act 1994

(2) Any reference in this Act to a regional, islands or district council includes a reference to any combination of those councils.

(3) Any reference in this Act to a proper officer and any reference which by virtue of this Act is to be construed as such a reference shall, in relation to any purpose and any local authority or other body or any area, be construed as a reference to an officer appointed for that purpose by that body or for that area, as the case may be.

(4) In this Act, except where the context otherwise requires, references to any enactment shall be construed as references to that enactment as amended, extended or applied by or under any other enactment, including any enactment contained in this Act.

SCHEDULE 4

CONSTITUTION AND PROCEEDINGS OF THE
LOCAL GOVERNMENT BOUNDARY COMMISSION FOR SCOTLAND

- 1 (1) The Boundary Commission shall be a body corporate consisting of a chairman, a deputy chairman and not more than four other members.
- (2) The members of the Commission shall be appointed by the Secretary of State and, subject to sub-paragraph (3) below, shall hold and vacate office in accordance with the terms of their respective appointments.
- (3) The Secretary of State may remove a person from membership of the Commission if he is satisfied that that person —
- (a) has had his estate sequestrated or has made a trust deed for behoof of his creditors or a composition contract;
 - (b) is incapacitated by physical or mental illness;
 - (c) has been absent from meetings of the Commission for a period longer than six consecutive months otherwise than for a reason approved by the Secretary of State; or
 - (d) is otherwise unable or unfit to discharge the function of a member.
- (4) The common seal of the Commission shall be authenticated by the signature of a member of the Commission or of some other person authorised in that behalf by the Commission.
- 2 (1) There shall be paid to each member of the Boundary Commission such salary or fees and allowances as may from time to time be determined by the Secretary of State.
- (2) The Commission may pay such pension, allowance or gratuity to or in respect of any member of the Commission on his retirement or death, or make such payments towards the provision of such pension, allowance or gratuity, as the Secretary of State may determine.
- (3) If a person ceases to be a member of the Commission, and it appears to the Secretary of State that there are special circumstances which make it right that that person should receive compensation, the Secretary of State may require the Commission to pay to that person a sum of such amount as the Secretary of State may determine.²⁵
- 3²⁶
- 4 (1) The Secretary of State may appoint, to assist and advise the Boundary Commission in the exercise of the Commission's functions, such persons as he

²⁵ Paragraph 2 amended by S.I. 1999/1820

²⁶ Paragraph 3 repealed by House of Commons Disqualification Act 1975

thinks fit, being persons having expert knowledge likely to be of value to the Commission.

(2) There shall be paid to persons appointed under this paragraph such fees and allowances as may from time to time be determined by the Secretary of State with the consent of the Treasury.²⁷

5 At any meeting of the Boundary Commission three shall be the quorum.

6 All acts done at a meeting of the Boundary Commission shall, notwithstanding that it is afterwards discovered that there was a defect in the appointment of a person purporting to be a member of the Commission, be as valid as if the defect had not existed.

7 Subject to the preceding provisions of this Schedule and to the provisions of, and of any directions given under, Part II of this Act, the procedure of the Boundary Commission at and in connection with their meetings shall be such as they may from time to time determine.

Officers and servants, remuneration and expenses

8 (1) The Secretary of State may appoint a secretary to the Boundary Commission and such other officers and servants of the Commission as he may determine.

(2) Before appointing a person to be secretary to the Commission, the Secretary of State shall consult with the Commission.

(3) The terms and conditions of appointment of any person appointed under this paragraph shall be determined by the Secretary of State.

(4) The Commission may, with the approval of the Secretary of State pay to its officers and servants such remuneration, allowances and expenses as may from time to time be determined.

(5) The Commission may, with the approval of the Secretary of State, pay such pensions, allowances or gratuities to or in respect of any of its officers or servants on their retirement or death, or make such payments towards the provision of such pensions, allowances or gratuities, as may be determined.²⁸

9 The expenses of the Boundary Commission including —

(a) the salaries, fees and allowances of its members,

(b) any payment of or towards the provision of a pension, allowance or gratuity to or in respect of a member on his retirement or death,

(c) any payment of compensation to a person who ceases to be a member,

²⁷ Sub-paragraph 4(2) amended by S.I. 1981/1670

²⁸ Paragraph 8 amended by S.I. 1999/1820

(d) the remuneration and any expenses paid to an assistant commissioner, and

(e) the remuneration and any expenses paid to the officers and servants of the Commission, and

(f) any payment of or towards the provision of a pension, allowance or gratuity to or in respect of any of the officers or servants of the Commission,

together with the fees and allowances paid to persons appointed under paragraph 4 above, shall be defrayed out of moneys provided by the Scottish Ministers.²⁹

Proof of documents

10 (1) Every document purporting to be an instrument made or issued by the Boundary Commission and to be duly sealed with the seal of the Commission or to be signed by the Secretary or any person authorised to act in that behalf shall be received in evidence and, unless the contrary is proved, shall be deemed to be an instrument made or issued by the Commission.

(2) Sufficient evidence of any such instrument may in any legal proceedings be given by the production of a document purporting to be certified by or on behalf of the secretary of the Commission to be a true copy of the instrument.

SCHEDULE 5

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SCHEDULE 6

RULES TO BE OBSERVED IN CONSIDERING ELECTORAL ARRANGEMENTS

1 (1) This Schedule applies to the consideration by the Secretary of State or the Boundary Commission of the electoral arrangements for election of councillors of local government areas.

(2) Having regard to any change in the number or distribution of electors of a local government area likely to take place within the period of five years immediately following the consideration, the number calculated by dividing the number of local government electors in each electoral ward of that local government area by the number of councillors to be returned in that ward shall be, as nearly as may be, the same.³¹

²⁹ Paragraph 9 amended by S.I. 1999/1820

³⁰ Schedule 5 repealed by Local Governance (Scotland) Act 2004

³¹ Sub-paragraph 1(2) amended by Local Government etc. (Scotland) Act 1994 and Local Governance (Scotland) Act 2004

(3) Subject to sub-paragraph (2) above, in considering the electoral arrangements referred to in sub-paragraph (1) above regard shall be had to —

(a) the desirability of fixing boundaries which are and will remain easily identifiable;

(b) any local ties which would be broken by the fixing of any particular boundary,

but if, in any case, there is a conflict between those criteria, greater weight shall be given to the latter.³²

2 The strict application of the rule stated in paragraph 1(2) above may be departed from in any area where special geographical considerations appear to render a departure desirable.

³² Sub-paragraph 1(3) amended by Local Governance (Scotland) Act 2004