



# Civic Government (Scotland) Act 1982

## 1982 CHAPTER 45

### PART IX

#### MISCELLANEOUS AND GENERAL

##### *Byelaws*

110

- (1) The <sup>M1</sup> Local Government (Scotland) Act 1973 shall be amended in accordance with subsections (2) and (3) below.
- (2) In section 202 of that Act (procedure etc. for byelaws)—
  - (a) for subsection (1)(c)(ii) there shall be substituted the following—

“(ii) the Civic Government (Scotland) Act 1982 ;”;
  - (b) in subsection (9), for the words “ Burgh Police (Scotland) Acts 1892 and 1903” there shall be substituted the words “ Civic Government (Scotland) Act 1982”.
- (3) After the said section 202 there shall be inserted the following sections—

##### **“202A Review of byelaws.**

A local authority shall, not later than 10 years from whichever is the later of the following times—

- (a) the coming into force of a byelaw which they have the power to revoke or amend ;
  - (b) the coming into force of this section ;
- review that byelaw and do so thereafter at intervals of not more than 10 years.

##### **202B Register of byelaws.**

- (2) The register kept under subsection (1) above shall contain—

*Status: Point in time view as at 01/04/1996.*

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- (a) a description of the byelaws, including a description of any offences created and penalties imposed by the byelaws;
  - (b) the date or dates when the byelaws and any amendments to them were confirmed ;
  - (c) the date or dates when the byelaws and any amendments to them came or come into operation ; and
  - (d) the date when the byelaws and any amendments to them were last reviewed under section 202A of this Act.
- (3) The register kept under subsection (1) above shall at such reasonable times and places as the local authority may determine be open to public inspection and any member of the public may make a copy of or extract from anything in it.
  - (4) No payment shall be charged or taken by the local authority for any inspection or the making of any copy or extract under subsection (3) above.
  - (5) The local authority may, on payment of such reasonable fee as they may determine, issue a certified true copy of an entry in the register ; and any document purporting to be certified by the proper officer of the local authority as a true copy of an entry shall be sufficient evidence of the terms of the original entry.

### **202C Revocation of byelaws by resolution.**

- (1) Byelaws may be revoked in accordance with this section by resolution of the local authority having power (apart from this section) to revoke them.
- (2) At least one month before the revocation under this section of any byelaws, notice of the proposed resolution revoking them shall be given in a newspaper circulating in the area to which the byelaws apply.
- (3) The local authority shall not decide the question whether or not to revoke byelaws under this section without taking into account any objections made to them in response to the notice given by them under subsection (2) above.
- (4) Byelaws revoked under this section shall cease to have effect on the date of their revocation or on such later date as may be specified in the resolution revoking them.
- (5) It shall not be competent under this section to revoke, separately from the set of byelaws or byelaw containing it any byelaw or, as the case may be, any part of a byelaw which was inserted into the set of byelaws or, as the case may be, the byelaw by, or otherwise wholly or substantially derives from, a modification made by the confirming authority on the making or any amendment of the set of byelaws or, as the case may be, the byelaw.
- (6) It shall not be competent under this section to revoke any byelaw or any part of any byelaw if the effect of the revocation would be to widen the scope of any other byelaw or, as the case may be, the remaining part of the byelaw.”

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

- C1** The text of ss. 75, 110, 119(5) and 137(7)(8) is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

**Marginal Citations**

- M1** 1973 c. 65.

**111 Cessation of certain byelaws and saving for certain byelaws.**

(1) Byelaws—

- (a) made under an enactment repealed by the <sup>M2</sup>Local Government (Scotland) Act 1947 but saved by section 381 of that Act;
  - (b) made under an enactment repealed by the <sup>M3</sup>Local Government (Scotland) Act 1973 but saved by section 225(1) of that Act;
  - (c) penalising persons allowing dogs in their charge to deposit excrement on footpaths or footways (construed in accordance with section 48(4) of this Act)
- shall cease to have effect.

(2) Notwithstanding—

- (a) subsection (1) above;
- (b) the repeal by or under this Act of any enactment conferring a power to make byelaws; and
- (c) the repeal as at the end of 1984 by sections 229(1) and 225(6) of the <sup>M4</sup>Local Government (Scotland) Act 1973 of the Burgh Police (Scotland) Acts 1892 to 1911 and the local statutory provisions to which the said section 225(6) applies,

any byelaws which—

- (i) are of a kind referred to in subsection (1)(a) or (b) above; or
- (ii) were made under any power contained in an enactment repealed by this Act or contained in those Acts of 1892 to 1911 or in those local statutory provisions and could be made under this Act

shall continue in force until the end of 1986 unless earlier revoked and, during the period for which they are continued in force under this section, may be dealt with in all respects as if having effect under the <sup>M5</sup>Local Government (Scotland) Act 1973.

**Marginal Citations**

- M2** 1947 c. 43.  
**M3** 1973 c. 65.  
**M4** 1973 c. 65.  
**M5** 1973 c. 65.

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### *Management rules*

#### **112 Making of management rules.**

- (1) A local authority may, in accordance with this section, make rules, to be known as “management rules”, to regulate—
  - (a) the use of; and
  - (b) the conduct of persons while on or in  
any land or premises which is owned, occupied or managed by the authority or is otherwise under their control and to which the public have access, whether on payment or not.

In this section, “land” does not include land below the high water mark of ordinary spring tides.
- (2) Management rules may be made notwithstanding any power under any enactment to make byelaws, whether exercised or not.
- (3) Notwithstanding section 201(3) of the <sup>M6</sup>Local Government (Scotland) Act 1973 (byelaws for good rule and government not to be made if provision is made by, or is or may be made under any other enactment) byelaws may be made under section 201(1) of that Act as respects any area although provision as respects that area is or may be made by any management rule.
- (4) At least one month before making management rules, a local authority shall—
  - (a) give notice in accordance with subsection (5) below of—
    - (i) their intention to do so;
    - (ii) the general purpose of the proposed rules;
    - (iii) the place where a copy of the proposed rules may be inspected;
    - (iv) the fact that and time within which objections may be made; and
    - (v) the address to which objections may be sent; and
  - (b) make copies of the proposed rules available for public inspection without payment at their offices and so far as the authority consider practicable at the land or premises to which the rules are to apply.
- (5) Notice shall be given for the purposes of subsection (4)(a) above by advertisement in a newspaper or newspapers circulating in the area of the local authority.
- (6) Any person may, within one month after notice has first been given by a local authority under subsection (4) above, notify in writing his objection and the ground of his objection to the authority.
- (7) Before making management rules, a local authority shall take into consideration any objections timeously received by them and shall give any objector an opportunity to be heard by them.
- (8) Management rules shall come into force on the date of their execution or on such later date as may be specified in the rules and shall, unless revoked, continue in force for a period of 10 years from that date.
- (9) Management rules shall be executed for the purposes of subsection (8) above by being sealed with the common seal of the local authority making them and signed by the proper officer of that authority.

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

- C2** Ss. 112 - 118 applied (with modifications) (9. 5. 1991) by [Tay Road Bridge Order Confirmation Act 1991 \(c. iv\)](#), [ss. 1,61](#), Sch. Pt. VII  
Ss. 112-118 extended (with modifications) (8.9.2000) by [2000 asp 10](#), s. 9, [Sch. 2 para. 10](#) (with s. 32); [S.S.I. 2000/312](#), [art. 2](#)

**Marginal Citations**

- M6** 1973 c. 65.

**113 Evidence of management rules.**

The production of a copy of any management rules purporting to be made by a local authority upon which is endorsed a certificate purporting to be signed by the proper officer of the authority stating—

- (a) that the rules were made by the authority;
- (b) that the copy is a true copy of the rules; and
- (c) the date upon which the rules became effective

shall be sufficient evidence of the facts stated in the certificate, and that without proof of the handwriting or official position of any person purporting to sign a certificate in pursuance of this section.

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

- C3** Ss. 112 - 118 applied (with modifications) (9. 5. 1991) by [Tay Road Bridge Order Confirmation Act 1991 \(c. iv\)](#), [ss. 1,61](#), Sch. Pt. VII  
Ss. 112-118 extended (with modifications) (8.9.2000) by [2000 asp 10](#), s. 9, [Sch. 2 para. 10](#) (with s. 32); [S.S.I. 2000/312](#), [art. 2](#)

**114 Publication of management rules.**

Management rules made by a local authority shall, together with a notice stating where copies of the rules may be obtained, be displayed at the entrance to the land or premises to which they apply or elsewhere so that they may be seen by members of the public intending to have access to the land or premises.

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

- C4** Ss. 112 - 118 applied (with modifications) (9. 5. 1991) by [Tay Road Bridge Order Confirmation Act 1991 \(c. iv\)](#), [ss. 1,61](#), Sch. Pt. VII  
Ss. 112-118 extended (with modifications) (8.9.2000) by [2000 asp 10](#), s. 9, [Sch. 2 para. 10](#) (with s. 32); [S.S.I. 2000/312](#), [art. 2](#)

**115 Inspection and copies of management rules.**

Copies of management rules shall be open to public inspection without payment and a copy of them shall on application be furnished to any person on payment of such reasonable charge as the local authority may determine.

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

- C5** Ss. 112 - 118 applied (with modifications) (9. 5. 1991) by [Tay Road Bridge Order Confirmation Act 1991 \(c. iv\)](#), [ss. 1,61](#), Sch. Pt. VII  
Ss. 112-118 extended (with modifications) (8.9.2000) by [2000 asp 10, s. 9](#), [Sch. 2 para. 10](#) (with s. 32); S.S.I. 2000/312, [art. 2](#)

**116 Expulsion or exclusion for breach of management rules.**

An authorised officer of a local authority which has made any management rule may—

- (a) if he has reasonable grounds for believing that a person has contravened, is contravening or is about to contravene the management rule, expel that person;
- (b) if he has reasonable grounds for believing that a person is about to contravene the management rule, exclude that person,

from the land or premises to which the rule applies.

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

- C6** Ss. 112 - 118 applied (with modifications) (9. 5. 1991) by [Tay Road Bridge Order Confirmation Act 1991 \(c. iv\)](#), [ss. 1,61](#), Sch. Pt. VII  
Ss. 112-118 extended (with modifications) (8.9.2000) by [2000 asp 10, s. 9](#), [Sch. 2 para. 10](#) (with s. 32); S.S.I. 2000/312, [art. 2](#)

**117 Exclusion orders.**

- (1) A local authority may decide that a person who has, in respect of particular land or premises, persistently contravened or attempted to contravene management rules applying to the land or premises and is, in their opinion, likely to contravene them again, shall be made subject to an exclusion order under this section.
- (2) An exclusion order shall take effect upon a person under subsection (1) above on such a date as the local authority may decide which shall be not less than 14 days after their decision under that subsection.
- (3) The local authority shall, in accordance with subsection (7) below, give the person subject to an exclusion order notice of their decision under subsection (1) above which notice shall contain a statement of the reasons for that decision and a statement as to his right under subsection (4) below to make representations.
- (4) The person who has been made subject to an exclusion order shall be entitled to make written or oral representations to the local authority at any time up to the date when the order would, but for subsection (5) below, have taken effect upon him.
- (5) On representations being so made the local authority shall suspend the effect of their decision, consider the representations and decide whether to confirm their decision or to revoke or amend it.
- (6) Section 56(1) of the <sup>M7</sup>Local Government (Scotland) Act 1973 shall not apply to the discharge of a local authority's functions under this section so as to enable them to be discharged by an officer.
- (7) Notice shall be given for the purposes of subsection (3) above by—

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- (a) its being sent by recorded delivery letter to the last known address of the person subject to the order so as to arrive there, in the normal course of post, not later than five days after the decision under subsection (1) above; or
  - (b) personal service of the notice upon that person within that time.
- (8) An exclusion order shall have effect for such period, not exceeding one year, as the local authority making it may determine; and a local authority may at any time reduce the period of, or revoke, an exclusion order made by them.

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

- C7** Ss. 112 - 118 applied (with modifications) (9. 5. 1991) by [Tay Road Bridge Order Confirmation Act 1991 \(c. iv\)](#), [ss. 1,61](#), Sch. Pt. VII  
Ss. 112-118 extended (with modifications) (8.9.2000) by [2000 asp 10, s. 9](#), [Sch. 2 para. 10](#) (with s. 32); [S.S.I. 2000/312](#), [art. 2](#)

**Marginal Citations**

- M7** [1973 c. 65](#).

**118 Offences.**

Any person who—

- (a) on being required to leave any land or premises by an authorised officer of the local authority who has reasonable grounds for believing that the person has contravened, is contravening or is about to contravene any management rule applying to the land or premises, fails to leave;
- (b) on being informed by an authorised officer who has reasonable grounds for believing that the person is about to contravene any management rule applying to any land or premises that he is excluded from the land or premises, enters or attempts to enter the land or premises; or
- (c) being a person subject to an exclusion order under section 117 of this Act, enters or attempts to enter the land or premises to which the exclusion order relates

shall be guilty of an offence and liable, on summary conviction, to a fine not exceeding £50.

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

- C8** Ss. 112 - 118 applied (with modifications) (9. 5. 1991) by [Tay Road Bridge Order Confirmation Act 1991 \(c. iv\)](#), [ss. 1,61](#), Sch. Pt VII  
Ss. 112-118 extended (with modifications) (8.9.2000) by [2000 asp 10, s. 9](#), [Sch. 2 para. 10](#) (with s. 32); [S.S.I. 2000/312](#), [art. 2](#)

*Regulation of charitable collections*

**119 Regulation of charitable collections.**

- (1) Subject to the provisions of this section, any person who organises a public charitable collection in respect of which the [<sup>F1</sup>local authority] for the area in which it is to be

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- held have not given their permission under this section shall be guilty of an offence and liable, on summary conviction, to a fine not exceeding [<sup>F2</sup>level 3 on the standard scale].
- (2) Subsection (1) above does not apply to a collection which takes place in the course of a public meeting or to a collection which takes place by means of an unattended receptacle kept in a fixed position in a public place.
- (3) An application for permission under this section shall be made in writing to the [<sup>F1</sup>local authority] by the organiser of the collection not later than 1 month before the date of the collection, or within such other period as the [<sup>F1</sup>authority] may fix.
- (4) On receipt of an application for permission under this section the [<sup>F1</sup>local authority] shall consult the chief constable for the area which comprises or includes their area and may make such other inquiries as they think fit.
- (5) In granting permission under this section a [<sup>F1</sup>local authority] may, subject to the provisions of any regulations made under subsection (13) below, impose such conditions as they think fit, having regard to the local circumstances in which the collection is to be held, including conditions—
- (a) specifying the date, time or frequency of the collection;
  - (b) specifying the area within which it is to take place;
  - (c) regulating its conduct;
  - (d) specifying the form of collection boxes, other containers and any other articles used for the purposes of the collection; and
  - (e) as to any other matter relating to the local circumstances of the collection.
- (6) A [<sup>F1</sup>local authority] may refuse to grant permission under this section on any of the following grounds—
- (a) that the date, time, frequency or area of the collection would cause undue public inconvenience;
  - (b) that another collection in respect of which permission under this section has been granted or which is exempt under subsection (11) below is due to take place on the same or a proximate day;
  - (c) that it appears to them that the amount likely to be applied for charitable purposes in consequence of the collection is inadequate having regard to the likely amount of the proceeds of the collection;
  - (d) that the organiser of the collection has been convicted of an offence under section 5 of the <sup>M8</sup>Police, Factories, etc. (Miscellaneous Provisions) Act 1916 or the <sup>M9</sup>House to House Collections Act 1939, or under [<sup>F3</sup>this section or] regulations made under subsection (13) of this section, or of any other offence which involves dishonesty or the commission of which would be likely to be facilitated by the grant of permission under this section.
- (7) A [<sup>F1</sup>local authority] may—
- (a) if they have reason to believe that there has been a change in the circumstances which prevailed at the time when they granted a permission under this section and they are of the opinion that, in consequence, grounds of refusal under subsection (6) above apply, withdraw the permission or vary any condition imposed by them under subsection (5) above in relation to that permission;
  - (b) if they have reason to believe that there has been, is or is likely to be a breach of any condition imposed by them under subsection (5) above, withdraw a permission under this section.



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(8) Where permission for a collection is refused under subsection (6) above or withdrawn under subsection (7) above, the [F1local authority] shall give written notice of that fact to the organiser of the collection and such notice shall include a statement of the reasons for such refusal or withdrawal.

(9) The organiser of a collection may appeal to the sheriff against the decision of a [F1local authority]—

- (a) under subsection (6) above, refusing permission for a collection;
- (b) under subsection (7) above, withdrawing such permission;
- (c) under subsection (5) above, imposing any condition;
- (d) under the said subsection (7), varying any condition,

and an appeal under this subsection shall be made by way of summary application and shall be lodged with the sheriff clerk within 14 days of the date of the decision appealed against or, in a case where reasons for a decision have been given, within 14 days from the date of receipt of those reasons.

(10) In upholding an appeal under subsection (9) above, the sheriff may—

- (a) remit the case with the reasons for his decision to the [F1local authority] for reconsideration of their decision; or
- (b) reverse or alter the decision of the [F1local authority].

(11) If he is satisfied that a person pursues charitable purposes throughout the whole or a substantial part of Scotland, the Secretary of State may direct that that person shall, subject to such conditions as may be specified in the direction, be exempt from subsection (1) above.

A direction made under this subsection may be revoked or amended by a further direction so made.

(12) Notwithstanding the provisions of subsection (11) above, any person who has been exempted from subsection (1) above by a direction of the Secretary of State under subsection (11) above shall, unless the Secretary of State otherwise directs, give to the [F1local authority] in whose area he intends to organise a public charitable collection 3 months notice of that intention.

A direction under this subsection may be revoked or amended by a further direction so made.

(13) Subject to the provisions of this section, the Secretary of State may make regulations for the purposes of regulating public charitable collections and, without prejudice to that generality, regulations may include provision about the keeping and publication of accounts, provision for prevention of annoyance to the public and provision making it an offence to fail to comply with any obligation imposed by the regulations which is specified in the regulations as an obligation breach of which is an offence and making any person guilty of such an offence liable on summary conviction to a fine not exceeding £50 or such lesser sum as may be specified in the regulations.

(14) Regulations under this section shall be made by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament.

<sup>F4</sup>(15) .....

(16) In this section “public charitable collection” means a collection from the public of money (whether given by them for consideration or not) for charitable purposes taken

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either in a public place or by means of visits from place to place and “charitable purposes” means any charitable, benevolent or philanthropic purposes whether or not they are charitable within the meaning of any rule of law.

#### Textual Amendments

- F1** Words in s. 119(1)(3)-(9)(10)(a)(b)(12) substituted (1.4.1996) by 1994 c. 39, s. 180(1), **Sch. 13 para. 129(16)**; S.I. 1996/323, **art. 4(1)(c)**
- F2** Words substituted by virtue of **Criminal Procedure (Scotland) Act 1975 (c. 21, SIF 39:1), s. 289G**
- F3** Words in s. 119(6)(d) inserted (1.9.1992) by **Charities Act 1992 (c. 41), s. 78(1), Sch. 6 para. 10(a)**; S.I. 1992/1900, **art. 2, Sch. 1.**
- F4** S. 119(15) repealed (5.11.1993) by 1993 c. 50, s. 1(1), **Sch. 1 Pt. X Group 1**

#### Marginal Citations

- M8** 1916 c. 31.
- M9** 1939 c. 44.

*The seashore etc.*

## 120 Savings for Crown and other rights.

Subject to—

- (a) the provisions of the <sup>M10</sup>Coast Protection Act 1949, the <sup>M11</sup>Town and Country Planning (Scotland) Acts 1972 to 1974 and the Dumping at Sea Act 1974;
- (b) the functions of statutory undertakers and port authorities; and
- (c) any public rights of way

a [<sup>F5</sup>local authority] may exercise, with respect to the seashore and adjacent waters, the powers conferred on them by sections 121 and 122 of this Act and, with respect to inland waters, the powers conferred on them by the said section 121.

#### Textual Amendments

- F5** Words in s. 120 substituted (1.4.1996) by 1994 c. 39, s. 180(1), **Sch. 13 para. 129(17)**; S.I. 1996/323, **art. 4(1)(c)**

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

- C9** S. 120 extended by **Electricity Act 1989 (c. 29, SIF 44:1), s. 112(1)(3), Sch. 16 para. 1(1) (xxxvii)**, Sch. 17 paras. 33, 35(1)

#### Marginal Citations

- M10** 1949 c. 74.
- M11** 1974 c. 20.

## 121 Control of the seashore, adjacent waters and inland waters.

- (1) Insofar as it is necessary to do so for the purpose of preventing nuisance or danger at, or preserving or improving the amenity of, or conserving the natural beauty of, the seashore, a [<sup>F6</sup>local authority] may, in accordance with this section, make byelaws—

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- (a) regulating or prohibiting any activity by way of trade or business with, or in expectation of personal reward from, members of the public on the seashore;
  - (b) regulating the use of vehicles on the seashore;
  - (c) regulating the exercise of sporting and recreational activities on the seashore.
- (2) Byelaws under subsection (1) above may confine the exercise of any activity (including the use of vehicles or kinds of vehicles) specified in the byelaws to a part of the seashore specified in the byelaws and prohibit the exercise in that part of the seashore of any other activity (including such use) so specified.
- (3) A <sup>F6</sup>[local authority] may, in accordance with this section, make byelaws relating to the adjacent waters for the purpose of—
  - (a) regulating the speed of pleasure boats in these waters;
  - (b) regulating the use of pleasure boats in these waters so as to prevent their navigation in a dangerous manner or without due care and attention or without reasonable consideration for other persons;
  - (c) requiring the use of effective silencers on pleasure boats in these waters;
  - (d) regulating the activities in these waters of divers, surfers, water skiers and persons engaged in similar recreational pursuits.
- (4) A <sup>F6</sup>[local authority] may make, in relation to inland waters, byelaws for the same purposes as they may, under subsections (1) and (3) above, make byelaws in relation to the seashore and adjacent waters.
- (5) Byelaws may be made under this section only if—
  - (a) the <sup>F6</sup>[local authority] have complied with subsection (6) below and made such other inquiries as may be reasonably necessary to ascertain the existence and identity of each person having—
    - (i) in the case of byelaws under subsection (1) above, a proprietary interest in the seashore;
    - (ii) in the case of byelaws under subsection (3) above, a proprietary interest in relation to the adjacent waters;
    - (iii) in the case of byelaws under subsection (4) above, a proprietary interest in or in relation to the inland waters; and
    - (iv) in any case, a proprietary interest in any salmon fishings;being a proprietary interest which may be affected by the byelaws;
  - <sup>F7</sup>(b) the local authority have given notice in writing of their proposal to make byelaws to each person having a proprietary interest such as is mentioned, in relation to the byelaws, in paragraph (a) above whose identity has been ascertained as mentioned in the said paragraph (a);]
  - (c) the <sup>F6</sup>[local authority] have, in connection with their proposal to make the byelaws, consulted such person or body, if any, as appears to them to be representative of persons who engage in each sporting or recreational activity which may be affected by the byelaws.
- (6) The [local authority] shall give public notice of their proposal to make byelaws under this section <sup>F8</sup> . . . in a newspaper circulating in the area where the byelaws are proposed to have effect.
- (7) If a <sup>F6</sup>[local authority] have complied with subsections (5)(a) and (6) above, <sup>F8</sup> . . . , the <sup>F6</sup>[authority] may <sup>F8</sup> . . . proceed to make the byelaws but shall not proceed earlier than

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one month after the date of the advertisement under subsection (6) above or, if there were more than one advertisement, the later or last of those dates.

- (8) Byelaws made under this section may provide that persons contravening such provisions of the byelaws as may be therein specified as provisions contravention of which is an offence shall be liable, on summary conviction thereof, to a fine not exceeding £50 or such lesser sum as the byelaws may specify; and any offence against any such provision of such byelaws committed within adjacent waters may be inquired into and dealt with as if it had been committed within the area of the [F6local authority] concerned.
- (9) A [F6local authority] may on the seashore or in or on adjacent waters place notices or other indications advising the public as to any danger or health hazard connected with the seashore or those waters.
- (10) A [F6local authority] may provide staff for life saving and any boats or equipment which are appropriate for life saving.
- (11) A [F6local authority], when exercising their powers under this section, shall have regard to the need to protect and maintain any public rights under the guardianship of the Crown to use the foreshore, adjacent waters or, as the case may be, inland waters.
- (12) In subsection (1) above, the reference to conserving natural beauty shall be construed in accordance with section 78(2) of the <sup>M12</sup>Countryside (Scotland) Act 1967.

#### Textual Amendments

- F6** Words in s. 121(1)(3)(4)(5)(a)(c)(6)-(11) substituted (1.4.1996) by 1994 c. 39, s. 180(1), **Sch. 13 para. 129(18)**; S.I. 1996/323, **art. 4(1)(c)**
- F7** S. 121(5)(b) substituted (4.1.1995) by 1994 c. 39, s. 141(a) (with s. 128); S.I. 1994/2850, art. 3(a), **Sch. 2**
- F8** Words in s. 121(6)(7) repealed (4.1.1995) by 1994 c. 39, ss. 141(b)(c), 180(2), **Sch. 14**; S.I. 1994/2850, **art. 3(a) Sch. 2**

#### Marginal Citations

- M12** 1967 c. 86.

## 122 Power to execute works on seashore.

- (1) A [F9local authority] may, in accordance with this section, on any part of the seashore or in or on adjacent waters or the bed thereof, execute any works for the purpose of preserving, improving or restoring amenity.
- (2) Works may be carried out under this section only if—
- (a) the [F9authority] have complied with subsection (4) below and made such other inquiries as may be reasonably necessary to ascertain the existence and identity of each person having, in the seashore or in relation to the adjacent waters or in the bed thereof or in any salmon fishings, a proprietary interest which may be affected by the works; and
  - (b) subject to subsection (5) below—
    - (i) every such person has consented to their being carried out; [F10and]
    - (ii) in the case of works by [F11any local authority other than the authority for Orkney Islands, Shetland Islands or Western Isles], they have

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obtained the consent of the river purification board within whose area the works are to be carried out; <sup>F12</sup> . . .

(iii) . . . . .

- (3) A [<sup>F9</sup>local authority], when exercising their powers under this section, shall have regard to the need to protect and maintain any public rights under the guardianship of the Crown to use the foreshore and adjacent waters or the bed thereof.
- (4) The [<sup>F9</sup>local authority] shall—
- (a) give public notice of their proposal to carry out works under this section and of the effect of subsection (2)(b)(i) above in relation to that proposal in a newspaper circulating in the area where the works are proposed to be carried out; and
  - (b) notify the Crown Estate Commissioners of that proposal.
- (5) If a [<sup>F9</sup>local authority] have complied with subsections (2)(a) and (4) above but the consent of a person whose consent to the carrying out of the works is required under subsection (2)(b)(i) above cannot be obtained because his existence or identity is unknown or he cannot be found or if the consent of a person whose consent is required under subsection (2)(b) above cannot be obtained because he fails to respond in any way to a request for his consent, the [<sup>F9</sup> authority] may nevertheless proceed to carry out the works but shall not so proceed earlier than one month after the date of the advertisement under subsection (4) above or, if there were more than one advertisement, the later or last of these dates.

#### Textual Amendments

- F9** Words in s. 122(1)(3)-(5) substituted (1.4.1996) by 1994 c. 39, s. 180(1), **Sch. 13 para. 129(19)(a)-(c)**; S.I. 1996/323, **art. 4(1)(c)**
- F10** Word in s. 122(2)(b)(i) inserted (1.4.1996) by 1994 c. 39, s. 180(1), **Sch. 13 para. 129(19)(b)**; S.I. 1996/323, **art. 4(1)(c)**
- F11** Words in s. 122(2)(b)(ii) substituted (1.4.1996) by 1994 c. 39, s. 180(1), **Sch. 13 para. 129(19)(b)(ii)(A)**; S.I. 1996/323, **art. 4(1)(c)**
- F12** S. 122(2)(b)(iii) and the preceding “and” repealed (1.4.1996) by 1994 c. 39, s. 180(1)(2), **Sch. 13 para. 129(19)(b)**, **Sch. 14**; S.I. 1996/323, **art. 4(1)(c)(d)**, **Sch. 2**

### 123 Interpretation of sections 120 to 122.

- (1) In sections 120 to 122 of this Act—
- “adjacent waters” means—
- (a) waters within a distance from low water mark of ordinary spring tides not exceeding 1,000 metres; or
  - (b) where the width of the waters separating the area of one [<sup>F13</sup>local authority] from that of another is less than 2,000 metres, measured by the shortest distance between the respective such low water marks in these areas, the waters within the median line between those respective low water marks;  
“inland waters” means any inland loch or non-tidal river, or lake or reservoir whether natural or artificial, and includes the bed and the shores or banks thereof;  
“proprietary interest” means the interest of a proprietor or lessee;

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“seashore” means the shore of the sea, that is to say, the land between the low water mark and the high water mark of ordinary spring tides and every cliff, bank, barrier, dune, beach, flat, esplanade or other land above the said high water mark adjacent to the shore, and to which the public have right of access;

“statutory undertakers” has the meaning assigned to it by section 275 of the <sup>M13</sup>Town and Country Planning (Scotland) Act 1972, except that it also includes the Post Office, <sup>F14</sup>. . . and British Telecommunications.

(2) Sections 120 to 122 of this Act and this section shall apply to Crown land, that is to say, land an interest in which belongs to Her Majesty in right of the Crown or belongs to a government department or is held in trust for Her Majesty for the purposes of a government department and, for the purposes of [<sup>F15</sup>giving notice or, as the case may be.] giving or withholding consent under these sections in relation to such land, the appropriate authority shall be—

- (a) in relation to land an interest in which belongs to Her Majesty in right of the Crown and is within the administration of the Crown Estate Commissioners, these Commissioners;
- (b) in relation to land an interest in which belongs to a government department or is held in trust for Her Majesty for the purposes of a government department, that department;

and, if any question arises as to the authority which is the appropriate authority in relation to any Crown land, the question shall be determined by the Treasury.

**Textual Amendments**

- F13** S. 123(1): words in definition of “adjacent waters” substituted (1.4.1996) by 1994 c. 39, s. 180(1), **Sch. 13 para. 129(20)(a)**; S.I. 1996/323, **art. 4(1)(c)**
- F14** S. 123(1): words in definition of “statutory undertakers” repealed (31.10.1994) by 1994 c. 21, ss. 67, 68(2)(d), Sch. 9 para. 28, **Sch. 11 Pt. II** (with s. 40(7)); S.I. 1994/2553, **art. 2**
- F15** Words in s. 123(2) inserted (4.1.1995) by 1994 c. 39, s. 180(1), **Sch. 13 para. 129(20)(b)**; S.I. 1996/323, **art. 2**

**Marginal Citations**

- M13** 1972 c. 52.

*Refuse collection and disposal*

<sup>F16</sup>124 .....

**Textual Amendments**

- F16** S. 124 repealed (with saving) (1.4.1992) by **Environmental Protection Act 1990** (c. 43), s. 162(2)(3), **Sch. 16 Pt. II**; S.I. 1992/266, **art.3**.

*Status: Point in time view as at 01/04/1996.*

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<sup>F17</sup>125 .....

**Textual Amendments**

<sup>F17</sup> S. 125 repealed (1.4.1992) by [Environmental Protection Act 1990 \(c. 43, SIF 46:4\)](#), s. 162(2), [Sch. 16 Pt. II](#); S.I. 1992/266, [art.3](#)

**126 Repeal of sections 124 and 125, savings and transitional provisions.**

<sup>F18</sup>(1) .....

(2) The repeal by the <sup>M14</sup>Local Government (Scotland) Act 1973 or by order made under section 135(1) or 137(3) of this Act of section 108 of the <sup>M15</sup>Burgh Police (Scotland) Act 1892 shall not affect a compulsory purchase order made under the said section 108 before the coming into force of that repeal and such compulsory purchase order may be proceeded with and shall have effect as if the said section 108 had not been repealed.

<sup>F18</sup>(3) .....

**Textual Amendments**

<sup>F18</sup> S. 126(1)(3) repealed (1.4.1992) by [Environmental Protection Act 1990 \(c. 43, SIF 46:4\)](#), s. 162(2), [Sch. 16 Pt. II](#); S.I. 1992/266, [art.3](#)

**Marginal Citations**

<sup>M14</sup> 1973 c. 65.

<sup>M15</sup> 1892 c. 55.

*Miscellaneous*

**127 Advertising on local authority lands, vehicles etc.**

(1) A local authority may enter into agreement with any person for the display of advertisements on or in—

- (a) any land, premises or structure vested in or maintained by the authority;
- (b) any vehicle owned or operated by the authority.

(2) This section is without prejudice to section 61 of the <sup>M16</sup>Town and Country Planning (Scotland) Act 1972 (control of advertisements) or to any regulation made under that Act by virtue of that section.

**Marginal Citations**

<sup>M16</sup> 1972 c. 52.

**128 Control of stray dogs.**

<sup>F19</sup>(1) .....

*Status: Point in time view as at 01/04/1996.*

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- (2) For the purpose of extending the powers under section 3 of the <sup>M17</sup>Dogs Act 1906 of seizure and detention of stray dogs to those found on land or premises other than [<sup>F20</sup>in roads] or places of public resort, the said section 3 shall be amended as follows—
- (a) in subsection (1), after the word “resort”, there shall be inserted the words “or on any other land or premises”;
  - (b) after the said subsection (1) there shall be inserted the following subsection—
 

“(1A) The powers under subsection (1) above shall not be exercised in relation to any dog found on any land or premises other than a highway or place of public resort unless the owner of the land or premises or person having the right of possession thereof has consented to such exercise.”.
- (3) Any enactment in any local Act which amends section 3 of the said Act of 1906 or confers powers on a district or islands council in relation to the said section 3 as it applies to the area of the council shall cease to have effect.

#### Textual Amendments

- F19** S. 128(1) repealed (1.4.1992) by Environmental Protection Act 1990 (c. 43, SIF 46:4), s. 162(2), **Sch. 16 Pt. IX**; S.I. 1992/266, **art.3**
- F20** Words substituted by Roads (Scotland) Act 1984 (c. 54, SIF 108), s. 156(1), **Sch. 9 para. 87(7)**

#### Marginal Citations

- M17** 1906 c. 32.

### [<sup>F21</sup>129 Killing of or injury to dogs worrying livestock.

- (1) In any civil proceedings in respect of the death of or injury to a dog it shall be a defence to prove—
  - (a) that the person alleged to have killed or injured the dog acted for the protection of any livestock and was a person entitled to act for the protection of that livestock; and
  - (b) that within forty-eight hours of the killing or injury notice thereof was given by him or on his behalf at a police station or to a constable.
- (2) For the purposes of this section a person is entitled to act for the protection of any livestock if, and only if—
  - (a) the livestock or the land on which it belongs to him or to any person under whose express or implied authority he is acting; and
  - (b) the circumstances are not such that the livestock was killed or injured on land on to which it had strayed and either the dog belonged to the occupier or its presence on the land was authorised by the occupier.
- (3) Subject to subsection (4) of this section, a person killing or causing injury to a dog shall be deemed for the purpose of this section to act for the protection of any livestock if, and only if, either—
  - (a) the dog is worrying or is about to worry the livestock and there are not other reasonable means of ending or preventing the worrying; or



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- (b) the dog has been worrying livestock, has not left the vicinity and is not under the control of any person and there are no practicable means of ascertaining to whom it belongs.
- (4) For the purposes of this section the conditions stated in either of the paragraphs of the preceding subsection shall be deemed to have been satisfied if the person alleged to have killed or injured the dog believed that the condition was satisfied and had reasonable ground for that belief.
- (5) For the purposes of this section—
- (a) an animal belongs to any person if he owns it or has it in his charge;
  - (b) land belongs to any person if he is the occupier thereof;
  - (c) “livestock” means cattle, horses, asses, mules, hinnies, sheep, pigs, goats and poultry, deer not in the wild state and while in captivity, pheasants, partridges and grouse; and
  - (d) “poultry” means the domestic varieties of the following that is to say, fowls, turkeys, geese, ducks, guinea-fowls, pigeons and quails.]

#### Textual Amendments

- F21** S. 129 (except as it has effect for the purposes of s. 74) repealed by [Animals \(Scotland\) Act 1987 \(c. 9, SIF 4:6\)](#), s. 8(2), [Sch.](#)

### General

#### 130 Offences by bodies corporate.

- (1) Where an offence under this Act or any regulation or byelaw made under this Act which has been committed by a body corporate is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, a director, manager, secretary or other similar officer of the body corporate, or a person purporting to act in any such capacity, he as well as the body corporate shall be guilty of that offence and shall be liable to be proceeded against and punished accordingly.
- (2) Where the affairs of a body corporate are managed by its members, subsection (1) above applies in relation to the acts and defaults of a member in connection with his functions of management as if he were a director of the body corporate.

#### 131 Application to Crown.

The provisions of Parts VI and VII and sections 120 to 123 of this Act apply to the Crown as provided in those provisions but otherwise this Act shall not bind the Crown.

#### 132 Expenses.

There shall be defrayed out of moneys provided by Parliament any increase attributable to the provisions of this Act in the sums payable out of moneys so provided under any other enactment.

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**133 Interpretation.**

In this Act, except where the context otherwise requires—

“local authority” means a [<sup>F22</sup>council constituted under section 2 of the Local Government etc. (Scotland) Act 1994];

“proper officer” shall be construed in accordance with section 235(3) of the <sup>M18</sup>Local Government (Scotland) Act 1973;

“public place” means any place (whether a thoroughfare or not) to which the public have unrestricted access and includes—

- (a) the doorways or entrances of premises abutting on any such place; and
- (b) any common passage, close, court, stair, garden or yard pertinent to any tenement or group of separately owned houses; and

[<sup>F23</sup>“public road”, “road” and “roads authority” have the same meanings as in the Roads (Scotland) Act 1984;]

“vessel” means any kind of water-craft including a hovercraft within the meaning of the <sup>M19</sup>Hovercraft Act 1968 but not including a vessel in Her Majesty’s service.

**Textual Amendments**

- F22** S. 133: words in definition of “local authority” substituted (1.4.1996) by 1994 c. 39, s. 180(1), **Sch. 13 para. 129(21)**; S.I. 1996/323, **art. 4(1)(c)**
- F23** Definition inserted by **Roads (Scotland) Act 1984 (c. 54, SIF 108)**, s. 156, **Sch 9 para. 87(8)**

**Marginal Citations**

- M18** 1973 c. 65.
- M19** 1968 c. 59.

**134 Postponement of repeal of Burgh Police (Scotland) Acts and local statutory provisions.**

[<sup>F24</sup>(1) The repeal of—

- (a) the Burgh Police (Scotland) Acts 1892 to 1911; and
- (b) the local statutory provisions to which subsection (6) of section 225 of the <sup>M20</sup>Local Government (Scotland) Act 1973 applies,

which by virtue, respectively, of

- (i) subsection (1) of section 229 of the said Act of 1973; and
- (ii) the said subsection (6),

falls to take place at the end of 1982 shall, subject to subsection (2) below, sections 135 and 137 of this Act and any order thereunder, be postponed until the end of 1984 and in each of the said subsections, at the beginning there shall be inserted the words “Subject to sections 134(2), 135 and 137 of the Civic Government (Scotland) Act 1982 and any order under these sections,” and for the words “1982” there shall be substituted the words “1984”.]

- <sup>F25</sup>(2) .....
- <sup>F25</sup>(3) .....
- <sup>F25</sup>(4) .....

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**Textual Amendments**

**F24** S. 134(1) repealed (5.11.1993 so far as it relates to the Burgh Police (Scotland) Acts 1892 to 1911) by 1993 c. 50, s. 1(1), **Sch. 1 Pt. X** Group2.

**F25** S. 134 (2)-(4) repealed (5.11.1993) by 1993 c. 50, s. 1(1), **Sch. 1 Pt. X** Group2.

**Marginal Citations**

**M20** 1973 c. 65.

<sup>F26</sup> **135** .....

**Textual Amendments**

**F26** S. 135 repealed (5.11.1993) by 1993 c. 50, s. 1(1), **Sch. 1 Pt. X** Group2.

**136 Consequential, transitional and supplementary provisions.**

- (1) Anything done or treated by virtue of any enactment as having been done under any provision of the Burgh Police (Scotland) Act 1892 to 1911 or under any local statutory provision to which subsection (6) of section 225 of the <sup>M21</sup>Local Government (Scotland) Act 1973 applies which could be done by or under any provision of this Act shall, on the repeal of the provision of the said Burgh Police (Scotland) Acts 1892 to 1911 or of the local statutory provision, be treated as having been done under the provision of this Act.
- (2) The Secretary of State may by order make such incidental, consequential, transitional or supplementary provision as may appear to him to be necessary, proper or expedient for the general or any particular purpose of this Act or in consequence of any of the provisions thereof 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.
- (3) Without prejudice to section 13 of the <sup>M22</sup>Interpretation Act 1978 (anticipatory exercise of statutory powers) anything which must or may be done under any provision of Part I or II of this Act may, notwithstanding that that provision is not in force, be done for the purposes of giving full effect to that provision at or after the time when it comes into force and the Secretary of State may, in making transitional provision by order under subsection (2) above, modify any provision of Part I or II of this Act for the purposes of this subsection.
- (4) An order under subsection (2) above—
  - (a) may be made at any time, whether before, at the same time as or after the commencement of any provision of this Act to which the provision made by the order relates;
  - (b) shall be made by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament.

**Marginal Citations**

**M21** 1973 c. 65.

*Status: Point in time view as at 01/04/1996.*

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**M22** 1978 c. 30.

### 137 Citation, commencement, repeals and extent.

- (1) This Act may be cited as the Civic Government (Scotland) Act 1982.
- (2) This Act, other than sections 134 to 136 and subsections (1) above, (3) to (6) and (9) below and this subsection, shall come into force on such date or dates as the Secretary of State may by order made by statutory instrument appoint and different dates may be appointed under this section for different provisions of this Act or for different purposes of the same provision.
- (3) An order under subsection (2) above shall of itself have the effect of repealing—
  - (a) any provision of the Burgh Police (Scotland) Acts 1892 to 1911;
  - (b) any local statutory provision (whether or not subject to an order under section 225(6) of the <sup>M23</sup>Local Government (Scotland) Act 1973 (exemption from and postponement of repeal of local statutory provision))
 to the extent that the provision provides for any matter which is also provided for (whether consistently or not) by or under any provision of this Act commenced by that order.
- (4) A repeal under subsection (3) above shall take effect on the date of commencement of the provision of this Act the commencement of which gives rise, under that subsection, to that repeal.
- (5) In this section “local statutory provision” means—
  - (a) a provision of a local Act, the Bill for which was promoted by a local authority;
  - (b) a provision of an Act confirming a provisional order made on the application of a local authority;
  - (c) a provision of an order made on such an application which was subject to special parliamentary procedure,
 not being a provision relating to a statutory undertaking or a protective provision for the benefit of any person.
- (6) In subsection (5) above, “statutory undertaking” means any railway, light railway, tramway, road transport, water transport, canal, inland navigation, ferry, dock, harbour, pier or lighthouse undertaking, any market undertaking, or any undertaking for the supply of electricity, gas, hydraulic power, water or district heating.
- (7) The enactments specified in Schedule 3 to this Act shall have effect subject to the amendments there specified.
- (8) The enactments mentioned in Schedule 4 to this Act are hereby repealed to the extent specified in the third column of that Schedule.
- (9) This Act (except section 16, which applies to England and Wales) applies to Scotland only.

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

**C10** Power of appointment conferred by s. 137(2) fully exercised: [S.I. 1983/201](#), 1984/573, 774

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*Status: Point in time view as at 01/04/1996.*

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**C11** The text of ss. 75, 110, 119(5) and 137(7)(8) is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

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**Marginal Citations**

**M23** 1973 c. 65.

**Status:**

Point in time view as at 01/04/1996.

**Changes to legislation:**

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