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STATUTORY INSTRUMENTS

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**1995 No. 789 (S.71)**

**LOCAL GOVERNMENT, SCOTLAND**

The Local Government (Application  
of Enactments) (Scotland) Order 1995

<i>Made</i>	- - - -	<i>14th March 1995</i>
<i>Laid before Parliament</i>		<i>16th March 1995</i>
<i>Coming into force</i>	- -	<i>6th April 1995</i>

The Secretary of State, in exercise of the powers conferred on him by section 181(1) and (2) of the Local Government etc. (Scotland) Act 1994<sup>(1)</sup> and of all other powers enabling him in that behalf, hereby makes the following Order:

**Citation, commencement and interpretation**

1.—(1) This Order may be cited as the Local Government (Application of Enactments) (Scotland) Order 1995 and shall come into force on 6th April 1995.

(2) In this Order, “new local authority” means a council in respect of which an ordinary election of councillors is to take place on 6th April 1995 in terms of section 5(2) of the Local Government etc. (Scotland) Act 1994.

**Application of enactments**

2. In the period prior to 1st April 1996, the provisions specified in column 1 of the Schedule to this Order shall apply to a new local authority as they apply to a local authority subject, where specified, to the modifications in column 2 of the Schedule.

St Andrew’s House,  
Edinburgh  
14th March 1995

*George Kynoch*  
Parliamentary Under Secretary of State, Scottish  
Office

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(1) 1994 c. 39.

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## SCHEDULE

Article 2

## ENACTMENTS APPLIED TO NEW LOCAL AUTHORITIES

Column 1	Column 2
<p><b>1.</b> The Local Government (Scotland) Act 1966—</p> <p>Section 35(2)</p> <p><b>2.</b> The Local Authorities (Goods and Services) Act 1970(3)—</p> <p>The whole Act</p> <p><b>3.</b> The Local Government (Scotland) Act 1973(4)—</p> <p>Section 23(5)</p> <p>Section 30</p> <p>Sections 34 and 35</p> <p>Section 38(6)</p> <p>Sections 39 to 43(7)</p> <p>Section 45(4) (insofar as saved from repeal)(8)</p> <p>Section 46(9)</p> <p>Section 47 (except subsection (5))(10)</p> <p>Sections 48 and 49(11)</p>	<p>For the words “this Act” substitute the words “the Local Government etc. (Scotland) Act 1994”.</p> <p>In subsection (4)(a) for the words “chairman or vice-chairman” substitute the words “convener or depute convener”.</p>
<hr/> <p>(2) 1966 c. 51; section 35(1) and (2) was amended and section 35(3) repealed in part by the Vehicle and Driving Licences Act 1969 (c. 27), Schedule 1, paragraph 10; section 35(1A) was repealed by 1993 S.L.R.</p> <p>(3) 1970 c. 39.</p> <p>(4) 1973 c. 65.</p> <p>(5) Section 23(1) and (4) was substituted in part and repealed in part by the Local Government (Miscellaneous Provisions) (Scotland) Act 1981 (c. 23) (“the 1981 Act”), Schedule 2, paragraph 30.</p> <p>(6) Section 38 was modified by the Transport Act 1985 (c. 67), section 74(12); section 38(2) was substituted in part by virtue of the Criminal Procedure (Scotland) Act 1975 (c. 21), sections 289F and 289G; section 38(4)(a) was amended by the Local Government and Planning (Scotland) Act 1982 (c. 43) (“the 1982 Act”), Schedule 3, paragraph 14; and section 38(4)(b) was substituted by the Local Government and Housing Act 1989 (c. 42) (“the 1989 Act”), Schedule 11, paragraph 33.</p> <p>(7) Section 41(4) was substituted by the 1989 Act, Schedule 6, paragraph 23 and amended by the Local Government Finance Act 1992 (c. 14) (“the 1992 Act”) Schedule 13, paragraph 35; section 42(1) was substituted by the Financial Services Act 1986 (c. 60), Schedule 16, paragraph 9; and section 42(2) was substituted in part by the Education (Scotland) Act 1980 (c. 44), Schedule 3, paragraph 1.</p> <p>(8) Section 45 was repealed by the 1989 Act, Schedule 12, Part II, subject to savings—those savings from repeal are specified at the Schedule to S.I. 1991/344.</p> <p>(9) Section 46(1) was amended and section 46(2) was repealed by the Local Government, Planning and Land Act 1980 (c. 65) (“the 1980 Act”), section 25(1) and Schedule 34, Part XVI respectively.</p> <p>(10) Section 47(1) was amended by the 1989 Act, Schedule 11, paragraph 34; section 47(3A) was inserted by the 1980 Act, section 25(5) and amended by the 1989 Act, Schedule 11, paragraph 34(b); and section 47(4) was substituted by virtue of the Water (Scotland) Act 1980 (c. 45), Schedule 9, paragraph 3.</p> <p>(11) Section 49(1)(b) and (f) was repealed by the Local Government (Scotland) Act 1975 (c. 30) (“the 1975 Act”), Schedule 7; section 49(1A) was inserted by the 1975 Act, Schedule 6, Part II, paragraph 46(b); section 49(2) was amended and was repealed in part by the 1982 Act, section 60(2)(a) and (c) and Schedule 4, Part I; and section 49(4) was amended by the 1989 Act, Schedule 11, paragraph 35(4)</p>	

Column 1	Column 2
Section 50(12)	
Sections 50A to 50K(13)	
Sections 56 to 58(14)	
Section 59	In subsection (1), the words “Subject to section 126 of this Act” shall not apply.
Sections 60 to 62	
Sections 64 to 66(15)	
Section 67(16)	For the words “chairman or vice-chairman” substitute the words “convener or depute convener”.
Section 68(17)	
Section 69 (except subsection (4))	
Section 79	After the word “acquire” insert the words “land by agreement or compulsorily and may acquire” and for the words from “or the business” to “or assemblies” substitute the words “and for those purposes sections 70 to 72, section 74 and sections 77 and 78 above shall apply”.
Section 81	
Sections 85 to 89(18)	
Section 93	
Section 94 (except subsection (1A))(19)	
Sections 95 to 104(20)	

(12) Section 50 was amended by the 1980 Act, section 26(4).

(13) Sections 50A to 50K were inserted by the Local Government (Access to Information) Act 1985 (c. 43) (“the 1985 Act”), section 2(1).

(14) Section 56(2) was substituted by the 1982 Act, section 32; section 56(6) was substituted by the 1992 Act, Schedule 13, paragraph 36; and section 56(11) to (13) was repealed by 1981 S.L.R.

(15) There are amendments to section 64(5) not relevant to this Order.

(16) Section 67 was amended by the 1982 Act, Schedule 3, paragraph 15.

(17) Section 68(3) was amended by virtue of the Criminal Procedure (Scotland) Act 1975, sections 289F and 289G.

(18) Section 86(3) was substituted in part by virtue of the Insurance Companies Act 1982 (c. 50), Schedule 4, paragraph 22; section 88(1) was amended and substituted in part by the Local Government Act 1986 (c. 10) (“the 1986 Act”), section 3(1)(a); section 88(1A) and (1B) was added by the 1986 Act, section 3(1)(b) and (2); and section 88(2)(a) was substituted in part by the 1986 Act, section 3(1)(c).

(19) Section 94(1B) was inserted by the 1981 Act, section 26(a) and the proviso substituted by the 1982 Act, Schedule 3, paragraph 17(a); section 94(2) was substituted by S.I. 1987/943; section 94(3) and (4) was inserted by the 1981 Act, section 26(b); and section 94(3)(b) was substituted by the 1982 Act, Schedule 3, paragraph 17(b).

(20) Section 96(4) was amended by the National Health Service and Community Care Act 1990 (c. 19) (“the 1990 Act”), Schedule 7, paragraph 2; section 96(5) and (6) was substituted by the 1975 Act, section 18; section 97 was amended by the Local Government Act 1988 (c. 9) (“the 1988 Act”), section 35(2) and the 1990 Act, Schedule 7, paragraph 3; sections 97A and 97B were added by the 1988 Act, section 35(3) and section 97A was amended by the 1990 Act, Schedule 7, paragraph 4; section 98 was amended by the 1975 Act, Schedule 6, Part II, paragraph 48 and the 1990 Act, Schedule 7, paragraph 5; section 99(a) and (b) was amended by the 1990 Act, Schedule 7, paragraph 6 and section 99(c) and (d) was added by the 1988 Act, section 35(4) and the Local Government Act 1992 (c. 19), section 3(2) respectively; section 100(1) and (2) was amended and section 100(1A) was inserted by the 1990 Act, Schedule 7, paragraph 7 and section 100(3) was substituted in part by virtue of the Criminal Procedure (Scotland) Act 1975, sections 289F and 289G; section 101(1) was substituted by the Rating and Valuation (Amendment) (Scotland) Act 1984 (c. 31) (“the 1984 Act”), section 10(1) and section 101(5)

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Column 1	Column 2
Sections 105 and 106 <b>(21)</b>	
Section 159	
Section 189	
Section 190	For the word “chairman” in both places where it occurs substitute the word “convener”.
Sections 191 to 199 <b>(22)</b>	
Section 200 (subsections (7), (8), (10) and (11))	
Section 208	
Sections 210 to 211 <b>(23)</b>	
Sections 231 and 232	
Section 235 <b>(24)</b>	In subsection (3), after the words “as the case may be” insert the words “and for the purpose of section 33A of this Act (as applied by article 3 of and Schedule I to the Local Government (Transitional Election Arrangements) (Scotland) Order 1994 <b>(25)</b> ) shall include the person designated in respect of that authority in terms of paragraph 4(2) of Schedule 2 to the Local Government etc. (Scotland) Act 1994”.
Schedule 7 <b>(26)</b>	<ul style="list-style-type: none"> <li>(i) in paragraphs 1(4), 3(1), 3(2) and 3(3) for the word “chairman”, substitute the word “convener”;</li> <li>(ii) in paragraphs 3(2) and 3(3) for the words “vice-chairman”, substitute the words “depute convener”; and</li> <li>(iii) in paragraph 5(1) after the words “such orders”, insert the words “or to the</li> </ul>

was inserted by the 1990 Act, Schedule 7, paragraph 8; section 102(1) was amended and section 102(2A) added by the 1989 Act, section 185(b), section 102(3) was amended by the Local Government etc. (Scotland) Act 1994 (“the 1994 Act”), Schedule 13, paragraph 92(26) and section 102(1) was amended and section 102(5) was inserted by the 1990 Act, Schedule 7, paragraph 9; section 103 was amended by the 1990 Act, Schedule 7, paragraph 10 and section 103(6)(b) was substituted by the 1994 Act, Schedule 13, paragraph 92(27); and section 103(7) was substituted in part by virtue of the Criminal Procedure (Scotland) Act 1975, sections 289F and 289G.

- (21) Section 105(1)(d) was substituted in part by the 1984 Act, section 10(2); section 105(3) was substituted in part by virtue of the Criminal Procedure (Scotland) Act 1975, sections 289E to 289G; section 106(1)(c) was amended by the Water (Scotland) Act 1980, Schedule 10, Part II; and section 106(3) was inserted by the 1990 Act, Schedule 7, paragraph 12.
- (22) Sections 192(5) and 197(4) were substituted in part by virtue of the Criminal Procedure (Scotland) Act 1975, sections 289F and 289G; section 194(1) was substituted by the 1994 Act, Schedule 13, paragraph 92(60); and section 197(1) was repealed by the 1985 Act, Schedule 3.
- (23) Section 210(1) was repealed in part by the 1975 Act, Schedule 7; section 210(5) was substituted in part by the Criminal Procedure (Scotland) Act 1975, sections 289F and 289G; section 210(7) and (8) and sections 210(7A) and (7B) and 210A were substituted and added respectively by the Housing and Planning Act 1986 (c. 63), Schedule 11, Part II, paragraph 39; and section 211(2A), (2B) and (3A) was inserted by the 1989 Act, section 159(2) and (3).
- (24) In section 235(1) definitions not relevant to this Order are amended.
- (25) [S.I. 1994/3255](#).
- (26) Paragraphs 2(4) and 5(1) and (2) were amended by the 1975 Act, Schedule 6, Part II, paragraph 54; and paragraphs 3(2) and (3) and 10(1) were substituted by and paragraph 10(2) was amended by the 1982 Act, Schedule 3, paragraph 26.

Column 1	Column 2
	procedure for early removal from office of the convener or depute convener”.
Schedule 7A(27)	
4. The Local Government (Scotland) Act 1975(28)—	
Part II	In section 28(2) for the word “chairman” substitute the word “convener”.
5. The Race Relations Act 1976—	
Section 71(29)	
6. The Local Government, Planning and Land Act 1980(30)—	
Part II	
7. The Representation of the People Act 1983(31)—	
Section 45	In subsection (1), for the words “Local Government (Scotland) Act 1973”, substitute the words “Local Government etc. (Scotland) Act 1994”.
8. The Local Government Act 1986(32)—	
Part II	
9. The Access to Personal Files Act 1987(33)—	
The whole Act	
10. The Local Government Act 1988(34)—	
Part II	
11. The Local Government and Housing Act 1989(35)—	
Section 1	
Section 2	In subsection (4) for the words “the expiry of the period of two months beginning with the coming into force of this section” substitute the words “31st December 1995”.

(27) Schedule 7A was inserted by the 1985 Act, Schedule 1, Part II.

(28) 1975 c. 30.

(29) 1976 c. 74; section 71 was amended by the Local Government Act 1985 (c. 51), Schedule 14, paragraph 54 and the Police and Magistrates' Courts Act 1994 (c. 29), Schedule 4 paragraph 51; and repealed in part by the Education Reform Act 1988 (c. 40), Schedule 13.

(30) 1980 c. 65

(31) 1983 c. 2.

(32) 1986 c. 10.

(33) 1987 c. 37.

(34) 1988 c. 9.

(35) 1989 c. 42.

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Column 1	Column 2
Section 3	
Section 4	In subsection (1), after the word “duty” insert the words “, not later than 30th September 1995,”.
Section 5 <b>(36)</b>	In subsection (1), after the word “duty” insert the words “, not later than 30th September 1995,”.
Sections 7 and 8	
Sections 10 to 12 <b>(37)</b>	
Section 18 <b>(38)</b>	(i) after subsection (2), insert— <p>“(2A) Regulations under this section may also authorise or require a scheme made by a new local authority to make provision for payment, after the scheme is made, of allowances to persons who are or have been members of that authority, in respect of the period between 6th April 1995 and the coming into effect of the scheme.</p> <p>(2B) In subsection (2A) above, “new local authority” means a council in respect of which an ordinary election of councillors is to take place on 6th April 1995 in terms of section 5(2) of the Local Government etc. (Scotland) Act 1994.”; and</p>
Sections 19 to 21 <b>(39)</b>	(ii) in subsection (3) for the words “and (2)”, substitute the words “, (2) and (2A)”.
Section 31	
<b>12.</b> The Local Authorities (Goods and Services) (Public Bodies) (Scotland) Order 1978 <b>(40)</b>	
<b>13.</b> The Local Authority Accounts (Scotland) Regulations 1985 <b>(41)</b>	
<b>14.</b> The Local Authorities (Publicity Account) (Exemption) (Scotland) Order 1988 <b>(42)</b>	

**(36)** Section 5 was amended by the Police and Magistrates' Courts Act 1994, Schedule 4, paragraph 35.

**(37)** Section 12 was amended by the Trade Union and Labour Relations (Consolidation) Act 1992 (c. 52), Schedule 2, paragraph 39.

**(38)** Section 18 was amended by the Police and Magistrates' Courts Act 1994, Schedule 4, paragraph 37.

**(39)** Section 21 was amended by the Police and Magistrates' Courts Act 1994, Schedule 4, paragraph 38.

**(40)** S.I. 1978/1761, amended by S.I. 1992/1025.

**(41)** S.I. 1985/267.

**(42)** S.I. 1988/332, amended by S.I. 1990/182.

Column 1	Column 2
<b>15.</b> The Local Government Officers (Political Restrictions) Regulations 1990 <b>(43)</b>	
<b>16.</b> The Local Government (Politically Restricted Posts) (No.2) Regulations 1990 <b>(44)</b>	
<b>17.</b> The Public Works Contracts Regulations 1991 <b>(45)</b>	
<b>18.</b> The Local Authorities (Members' Interests) Regulations 1992 <b>(46)</b>	After regulation 6 shall be inserted— “(7) Any duty imposed under these Regulations on or in relation to a proper officer shall, in respect of a new local authority within the meaning of the Local Government (Application of Enactments) (Scotland) Order 1995, be carried out, until the appointment of such officer for that purpose by that authority, by the person designated in respect of that authority in terms of paragraph 4(2) of Schedule 2 to the Local Government etc. (Scotland) Act 1994.”.
<b>19.</b> The Public Service Contracts Regulations 1993 <b>(47)</b>	
<b>20.</b> The Public Supply Contracts Regulations 1995 <b>(48)</b>	

## EXPLANATORY NOTE

*(This note is not part of the Order)*

In consequence of local government reorganisation in Scotland, new mainland councils will be elected on 6th April 1995. Those councils will take over local authority functions at 1st April 1996. This Order applies certain general and procedural provisions of the Local Government (Scotland) Act 1973 (c. 65) and of certain other enactments relating to local authorities which would not otherwise apply, in the period prior to 1st April 1996, to those new councils, as they apply to existing councils.

**(43)** S.I. 1990/851.

**(44)** S.I. 1990/1447.

**(45)** S.I. 1991/2680, amended by S.I. 1992/3279.

**(46)** S.I. 1992/618.

**(47)** S.I. 1993/3228.

**(48)** S.I. 1995/201.