Isle of Man

Ellan Vannin

AT 24 of 1985

LOCAL GOVERNMENT ACT 1985

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Isle of Man

Ellan Vannin

LOCAL GOVERNMENT ACT 1985

Received Royal Assent: *23 September 1985*
Passed: *9 July 1985*
Commenced: *1 April 1986*

AN ACT to re-enact with amendments certain enactments relating to the Local Government of the Island; and for connected purposes.

GENERAL NOTE: The maximum fines in this Act are as increased by the *Criminal Justice (Penalties, Etc.) Act 1993* s 1.

PART I – CENTRAL SUPERVISION OF LOCAL AUTHORITIES

1 Isle of Man director of public health

(1) The Department of Health and Social Care shall nominate a fit and proper person, being a registered medical practitioner, as director of public health, and may nominate other such persons as deputy directors of public health.[1]

(2) A director of public health shall provide the relevant Department with such assistance as the relevant Department may consider necessary in order to fulfil its obligations under any enactment.[2]

2 Provision of assistance to local authorities

(1) The relevant Department shall make such arrangements as appear to it to be necessary for the provision by the relevant Department of technical assistance to local authorities in the performance of their functions under any enactment, and may for that purpose make available to a local authority the services of officers of the relevant Department, on such terms as may be agreed between the relevant Department and the local authority.[3]

(2) The relevant Department may in writing nominate any officer of the relevant Department for the purpose of carrying out in pursuance of arrangements under subsection (1) any functions conferred on a local

authority, or on a person authorised by or a specified officer of a local authority, by any enactment.[4]

(3) Any officer of the relevant Department nominated under subsection (2) shall be deemed, when exercising any such functions as are mentioned in that subsection, to be acting as an officer of the local authority in question, and shall have all the powers of a duly authorised officer of the authority, or of such person or specified officer, as the case may be, under the enactment in question.[5]

(4) The relevant Department may by regulations prescribe —

(a) the charges to be paid by a local authority to the relevant Department in respect of the expenses incurred by the relevant Department in providing technical assistance to the authority in pursuance of arrangements under subsection (1); and[6]

(b) the time and manner in which such charges are to be paid.[7]

(5) Before making regulations under subsection (4) the relevant Department shall consult the local authorities concerned.[8]

3 [Repealed][9]

4 Inquiries, reports and returns

[P1972/70/230]

(1) The relevant Department may cause to be made such inquiries as are directed by this or any other Act, or as they may see fit, —

(a) in relation to any matters concerning local government or the public health; or

(b) as to any matters with respect to which their sanction, approval or consent is required by any enactment; or

(c) as to any public document which they propose to make pursuant to any enactment;

(d) as to the manner in which any functions of a local authority are carried out by the authority.[10]

(2) [Repealed][11]

(3) Every local authority shall send to the relevant Department such reports and returns, and give to the relevant Department such information with respect to the performance of its functions, as may from time to time be required by the relevant Department or by Tynwald.[12]

(4) If a local authority fails to comply with any requirement under subsection (3) within the time limited therefor, the High Court may make an order enforcing it to comply therewith.

4A Standards of performance

(1) The relevant Department may by regulations specify the minimum standards to be achieved by local authorities in the discharge of any functions specified in the regulations.[13]

(2) Regulations under subsection (1) may —

(a) specify different standards to be achieved by different local authorities; and

(b) provide that failure by a local authority to achieve a standard specified in the regulations shall constitute a failure by the authority to discharge the functions in question for the purpose of section 5.

(3) Before making regulations under subsection (1) the relevant Department shall consult the local authorities concerned.[14]

5 Default powers

(1) This section applies to —

(a) functions conferred on a local authority by an enactment by or in relation to which it is provided that this section shall apply, and

(b) functions to which regulations under section 4A apply.

(2) If the relevant Department is satisfied that a local authority ("the defaulting authority") has failed to discharge any functions to which this section applies and which the authority ought to have discharged, the relevant Department may make an order transferring such of the functions of the defaulting authority as are specified in the order to —

(a) the relevant Department, or[15]

(b) such other local authority as is specified in the order ("the transferee authority").[16]

(3) An order under subsection (2)(b) may not be made without the consent of the transferee authority.

(4) Before making an order under subsection (2) the relevant Department shall give to the defaulting authority a notice in writing —

(a) specifying the functions which, in the opinion of the relevant Department, the defaulting authority has failed to discharge, with sufficient particulars of the failure in question,[17]

(b) stating that the relevant Department proposes to make an order under subsection (2) relating to those functions,[18]

(c) stating the general effect of the proposed order, and

(d) inviting the authority to make representations in writing with respect to the proposal within such time (not being less than 28 days after the notice is given) as is specified in the notice;

and shall consider any representations duly made in response to the notice.[19]

(5) An order under subsection (2) may do all or any of the following —

(a) make such modifications of any statutory provision (whenever made) as appear to the relevant Department to be necessary or expedient to give effect to the transfer of functions;[20]

(b) provide for the payment by the defaulting authority of any expenses incurred by the relevant Department or transferee authority in discharging those functions, and for the manner in which any such payment is to be defrayed;[21]

(c) provide for the certification of any expenses referred to in paragraph (b);

(d) enable the defaulting authority to raise money required for making any payment referred to in paragraph (b);

(e) enable the relevant Department or transferee authority to make and levy a rate within the district of the defaulting authority to defray the expenses incurred in discharging the transferred functions;[22]

(f) provide for the transfer to the relevant Department or transferee authority of any staff, property, accommodation, rights, liabilities and obligations of the defaulting authority;[23]

(g) provide for the modification, in relation to the transferred functions, of any statutory provision relating to the functions of local authorities;

(h) contain such consequential, incidental, supplemental and transitional provisions as appear to the relevant Department to be necessary or expedient for the purposes of the order.[24]

(6) Where an order under subsection (2) is revoked the relevant Department may, by revoking the order or a subsequent order, make such provision as it considers appropriate with respect to any staff employed, property held, accommodation used, rights enjoyed and liabilities and obligations incurred by the relevant Department or transferee authority for the purposes of the transferred functions.[25]

PART II – ALTERATION OF AREAS ETC.

6 Alteration to boundaries

(1) The Department may, on the application of the local authority for any district, by order alter the boundaries of the district.[26]

(2) Before making an order under this section, the Department shall consult with every local authority whose district is affected by the proposed order, and shall hold an inquiry.[27]

(3) An order under this section may include provision for —

(a) the number of members of the local authority for any district affected by the order, and the terms of office of such members;

(b) the retirement, election or appointment of members of any existing local authority, joint board, joint committee or other public body in any district or area affected by the order;

(c) the dissolution of any existing joint board, joint committee or other public body in any area affected by the order;

(d) the alteration or abolition of any special district affected by the order;

(e) the vesting in the local authority for any district affected by the order, of any property, rights, liabilities and obligations of any such body as is mentioned in paragraph (b);

(f) the adjustment of any assets and liabilities not provided for under paragraph (e) between any local authorities, joint boards, joint committees and other public bodies in any district or area affected by the order, in such manner as may be provided for by the order;

(g) the determination by the Department of any matter arising in connection with the subject-matter of the order;[28]

(h) making such incidental, consequential, transitional or supplemental provision as appears to the Department to be necessary or proper for the purposes of the order.[29]

(3A) Without prejudice to subsection (3), an order under this section may —

(a) make temporary provision, for such period (not exceeding 10 years) as is specified in the order, with respect to rates to be levied by any authority mentioned in subsection (3)(f);

(b) alter the boundary of any constituency which comprises any district or any part of a district affected by the order;

(c) make transitional provision with respect to the preparation of registers of electors for any constituency, district or ward affected by the order;

(d) cancel or alter any arrangements made for the performance by any authority mentioned in subsection (3)(f) of any functions on behalf of any other public authority;

(e) cancel any contract entered into by any such authority in the performance of any of the functions of the authority, or in pursuance of any arrangements mentioned in paragraph (d), or amend the terms and conditions of such a contract;

(f) provide for any byelaw applying to a district or area affected by the order to apply to any other district or area so affected, or to any part of such a district or area;

(g) amend or repeal any enactment which appears to the Department to be inconsistent with, or to have become unnecessary or to require modification in consequence of, the order.[30]

(4) An order under this section shall not have effect unless it is approved by Tynwald.

(5) Where the Department has refused to make an order under this section, the applicants for the order may present a petition to Tynwald praying that such an order be made; and Tynwald, if it considers that such an order should be made, may by resolution direct that the Department make such an order.[31]

6A Merger of local authorities

(1) The Department may, with the consent of the local authorities for 2 or more districts, by order —

(a) unite the districts of those authorities ("the former authorities") as a single local government district ("the new district");

(b) dissolve the former authorities; and

(c) establish a local authority for the new district.

(2) An order under this section shall —

(a) state whether the new district is to be a town district, village district or parish district; and

(b) provide for the number of members of the local authority for the new district, and the election and terms of office of such members.

(3) An order under this section may include provision for —

(a) the division of the new district into wards;

(b) the retirement, election or appointment of members of any existing joint board, joint committee or other public body in any area affected by the order;

(c) the dissolution of any such body;

(d) the alteration or abolition of any special district affected by the order;

(e) the transfer to the local authority for the new district of any staff of the former authorities and any body dissolved under paragraph (c);

(f) the vesting in the local authority for the new district of any property, rights, liabilities and obligations of the former authorities and any body dissolved under paragraph (c);

(g) the adjustment of any assets and liabilities not provided for under paragraph(f) between any local authorities, joint boards, joint committees and other public bodies in any area affected by the order, in such manner as may be provided for by the order;

(h) the determination by the Department of any matter arising in connection with the subject-matter of the order;

(i) making such incidental, consequential, transitional or supplemental provision as appears to the Department to be necessary or proper for the purposes of the order.

(4) Without prejudice to subsection (3), an order under this section may —

(a) make temporary provision, for such period (not exceeding 10 years) as is specifies in the order, authorising or requiring different rates to be levied by the local authority for the new district within the districts of the former authorities;

(b) constitute such part of the new district as may be specified in the order a special district for the purpose of charging on it exclusively any expenses of the local authority for the new district;

(c) alter the boundary of any constituency which comprises any district or any part of a district affected by the order;

(d) make transitional provision with respect to the preparation of registers of electors for any constituency, district or ward affected by the order;

(e) provide for any byelaw applying to a district or area affected by the order to apply to any other district or area so affected, or to any part of such a district or area;

(f) amend or repeal any enactment which appears to the Department to be inconsistent with, or to have become unnecessary or to require modification in consequence of, the order.

(5) An order under this section shall not have effect unless it is approved by Tynwald.[32]

7 Establishment of joint boards

(1) Where the Department is satisfied that it is expedient that —

(a) any local authorities; or

(b) the Department and any local authority or authorities,[33]

should act jointly for the purposes of any enactment, either generally or in any particular case, the Department may by order establish a joint board for those purposes.[34]

(2) A joint board shall consist of representatives of the constituent authorities, and shall be a body corporate, with perpetual succession and

a common seal, by such name as may be specified in the order under this section.

(3) An order under this section may include provision for —

(a) the appointment of members of the joint board and the terms of office of such members;

(b) enabling or requiring the joint board to act in carrying out any functions of some or all of the constituent authorities under the relevant enactment, either generally or in any particular case;

(c) applying to the joint board, with or without modifications, the provisions of any enactment relating to local government or the functions of the constituent authorities;

(d) the vesting in the joint board of any property, rights, liabilities and obligations of a constituent authority for the purposes of the functions of the joint board;

(e) the payment by the constituent authorities of the expenses of the joint board arising from the exercise of its functions;

(f) the determination by the Department of any matter arising in connection with the subject matter of the order;[35]

(g) making such incidental, consequential, transitional or supplemental provision as appears to the Department to be necessary or proper for the purposes of the order.[36]

(4) An order under this section may constitute such part of the district of a constituent authority as may be specified in the order a special district for the purpose of charging thereon exclusively any expenses of the joint board payable by the authority.

(5) Before making an order under this section, the Department shall consult with every local authority affected by the proposed order.[37]

(6) An order under this section shall not have effect unless it is approved by Tynwald.

8 Establishment of special district

[1984/5/13]

(1) The Department may, on the application of a local authority, by order constitute such part of the authority's district as is specified in the order a special district for the purpose of charging thereon exclusively the expenses of the exercise by the authority with respect to the special district of the functions specified in the order.[38]

(2) An order under this section shall not have effect unless it is approved by Tynwald.

(3) In relation to expenses of sewerage, the reference in subsection (1) to the Department shall be construed as a reference to the Manx Utilities Authority.[39]

9 Division of district into wards, etc

(1) The division of any district into wards, and the allocation of members of the local authority for the district to such wards, existing at the commencement of this Act shall continue to have effect, subject to the following provisions of this section.

(2) The local authority for any town district or village district may make a scheme with respect to its district, and the Department may make an order with respect to a parish district, for all or any of the following purposes —

(a) the division of the district into wards;

(b) the alteration of the number and boundaries of the wards;

(c) the abolition of wards;

(d) the alteration of the number of members of the local authority;

(e) the holding of a fresh election of members of the authority following any such division, alteration or abolition.[40]

(3) A local authority which has made a scheme under subsection (2) may, after giving such notice as may be prescribed, submit the scheme to the Department, and the Department may by order give effect to the scheme, with or without modifications, from such date as may be specified in the order.[41]

(4) An order under subsection (2) or (3) may contain such incidental, consequential, transitional or supplemental provision as appears to the Department to be necessary or proper for the purposes of the order.[42]

(5) Before making an order under subsection (2) or (3), the Department shall cause an inquiry to be held.[43]

(6) An order under subsection (2) or (3) shall not have effect unless it is approved by Tynwald.

PART III – PROCEEDINGS OF LOCAL AUTHORITIES

10 Proceedings and allowances

(1) Schedule 1 shall have effect with respect to the meetings and proceedings of local authorities and their committees.

(2) Schedule 2 shall have effect with respect to the payment of allowances to members of local authorities.

Restrictions on voting

11 Disability of members of authorities for voting on account of interest in contracts, etc

[P1972/70/94]

(1) Subject to section 14, if a member of a local authority has any pecuniary interest, direct or indirect, in any contract, proposed contract or other matter, and is present at a meeting of the local authority at which the contract or other matter is the subject of consideration, he shall at the meeting and as soon as practicable after its commencement disclose the fact and shall not take part in the consideration or discussion of the contract or other matter or vote on any question with respect to it.

(2) If any person fails to comply with the provisions of subsection (1) he shall for each offence be liable on summary conviction to a fine not exceeding £2,500 unless he proves that he did not know that the contract, proposed contract or other matter in which he had a pecuniary interest was the subject of consideration at that meeting.

(3) A prosecution for an offence under this section shall not be instituted except by or on behalf of the Attorney General.

(4) The following, that is to say —

(a) the receipt by the mayor of remuneration or his right to receive, or the possibility of his receiving, such remuneration;

(b) the receipt by a member of a local authority of an allowance or other payment under Schedule 2 or his right to receive, or the possibility of his receiving, any such payment;

shall not be treated as a pecuniary interest for the purposes of this section.

12 Pecuniary interests for purposes of section 11

[P1972/70/95]

(1) For the purposes of section 11 a person shall be treated, subject to subsections (2) and (3) and to section 14, as having indirectly a pecuniary interest in a contract, proposed contract or other matter, if —

(a) he or any nominee of his is a member of a company or other body with which the contract was made or is proposed to be made or which has a direct pecuniary interest in the other matter under consideration; or

(b) he is a partner, or is in the employment, of a person with whom the contract was made or is proposed to be made or who has a direct pecuniary interest in the other matter under consideration.

(2) Subsection (1) does not apply to membership of or employment under any public body, and a member of a company or other body shall not by

reason only of his membership be treated as having an interest in any contract, proposed contract or other matter if he has no beneficial interest in any securities of that company or other body.

(3) In the case of married persons living together the interest of one spouse shall, if known to the other, be deemed for the purpose of section 11 to be also an interest of the other.

(4) In the case of civil partners living together the interest of one civil partner, shall, if known to the other, be deemed for the purpose of section 11 to be also an interest of the other.[44]

13 General notices and recording of disclosures for purposes of section 11

[P1972/70/96]

(1) A general notice given in writing to the clerk of the authority by a member thereof to the effect that he or his spouse or civil partner is a member or in the employment of a specified company or other body, or that he or his spouse or civil partner is a partner or in the employment of a specified person, or that he or his spouse or civil partner is the tenant of any premises owned by the authority, shall, unless and until the notice is withdrawn, be deemed to be a sufficient disclosure of his interest in any contract, proposed contract or other matter relating to that company or other body or to that person or to those premises which may be the subject of consideration after the date of the notice.[45]

(2) The authority shall cause to be recorded in a book to be kept for the purpose particulars of any disclosure made under section 11 and of any notice given under this section, and the book shall be open at all reasonable hours to the inspection of any member of the local authority.

14 Removal or exclusion of disability, etc

[P1972/70/97]

(1) The Department may, subject to such conditions as it may think fit to impose, by order remove any disability imposed by section 11 in any case in which the number of members of the local authority disabled by that section at any one time would be so great a proportion of the whole as to impede the transaction of business, or in any other case in which it appears to the Department in the interests of the inhabitants of the district that the disability should be removed.[46]

(2) The power of the Department under subsection (1) includes power to remove, either indefinitely or for any period, any such disability which would otherwise attach to any member or any class or description of member by reason of such interests, and in respect of such matters, as may be specified by the Department.[47]

(3) Nothing in section 11 precludes any person from taking part in the consideration or discussion of, or voting on, any question whether an

application should be made to the Department for the exercise of the powers conferred by subsections (1) and (2).[48]

(4) Section 11 does not apply to an interest in a contract, proposed contract or other matter which a member of a local authority has —

(i) as a ratepayer or inhabitant of the district; or

(ii) as a tenant of a dwelling house owned by the local authority where that dwelling house is the subject of consideration in common with other dwelling houses owned by the local authority in the same locality;

or to an interest in any matter relating to the terms on which the right to participate in any service, including the supply of goods, is offered to the general public.

(5) For the purpose of section 11 a member shall not be treated as having a pecuniary interest in any contract, proposed contract or other matter by reason only of an interest of his or of any company, body or person with which he is connected as mentioned in section 12(1) which is so remote or insignificant that it cannot reasonably be regarded as likely to influence a member in the consideration or discussion of, or in voting on, any question with respect to that contract or matter.

(6) Where a member of a local authority has an indirect pecuniary interest in a contract, proposed contract or other matter by reason only of a beneficial interest in securities of a company or other body, and the total nominal value of those securities does not exceed £1,000 or one-hundredth of the total nominal value of the issued share capital of the company or body, whichever is the less, and if the share capital is of more than one class, the total nominal value of shares of any one class in which he has a beneficial interest does not exceed one-hundredth of the total issued share capital of that class, section 11 shall not prohibit him from taking part in the consideration or discussion of the contract or other matter or from voting on any question with respect to it, without prejudice, however, to his duty to disclose his interest.

15 Interpretation of Part III

[P1972/70/98]

In sections 12 and 14 "**securities**" and "**shares**" have the same meanings respectively as in the *Prevention of Fraud (Investments) Act 1968*.

PART IV – DISCHARGE OF FUNCTIONS

16 General powers for exercise of functions

[P1972/70/111]

(1) Without prejudice to any powers exercisable apart from this section but subject to the provisions of this Act and any other enactment (whenever passed), a local authority shall have power to do anything (whether or not involving the expenditure, borrowing or lending of money or the acquisition or disposal of any property) which is calculated to facilitate, or is conducive or incidental to, the discharge of any of its functions.

(2) A local authority shall not by virtue of this section raise money by any means, or lend money, except in accordance with the enactments relating to those matters respectively.

17 Arrangements for discharge of functions by committees, etc

[P1972/70/101]

(1) Subject to any express provision contained in this Act or any Act passed after this Act, a local authority may arrange for the discharge of any of its functions by a committee, a sub-committee or an officer of the authority.

(2) Where by virtue of this section any functions of a local authority may be discharged by a committee of the authority then, unless the authority otherwise direct, the committee may arrange for the discharge of any of those functions by a sub-committee or an officer of the authority.

(3) Any arrangements made by a local authority or committee under this section for the discharge of any functions by a committee, sub-committee or officer shall not prevent the authority or committee by whom the arrangements are made from exercising those functions.

(4) Subject as aforesaid, two or more local authorities may, with the consent of the Department, discharge any of their functions jointly and, where arrangements are in force for them to do so, —

(a) they may also arrange for the discharge of those functions by a joint committee of theirs or by an officer of one of them, and subsection (2) shall apply in relation to those functions as it applies in relation to the functions of the individual authorities; and

(b) any enactment relating to those functions or the authorities by whom or the areas in respect of which they are to be discharged shall have effect subject to all necessary modifications in its application in relation to those functions and the authorities by whom and the areas in respect of which (whether in pursuance of the arrangements or otherwise) they are to be discharged.[49]

(4A) Subject as aforesaid, a local authority may, with the consent of the Department, enter into arrangements with any other local authority for the discharge by the latter authority of any of the functions of the former authority.[50]

(4B) The consent of the Department under subsection (4) or (4A) may be given subject to compliance with such conditions as may be specified in the consent.[51]

(5) A local authority's functions with respect to acquiring or disposing of land, making or levying a rate or borrowing money shall be discharged only by the authority.

(6) References in this section and section 18 to the discharge of any of the functions of a local authority include references to the doing of anything which is calculated to facilitate, or is conducive or incidental to, the discharge of any of those functions.

18 Appointment of committees

[P1972/70/102]

(1) For the purpose of discharging any functions in pursuance of arrangements made under section 17 —

(a) a local authority may appoint a committee of the authority; or

(b) two or more local authorities may, with the consent of the Department, appoint a joint committee of those authorities; or[52]

(c) any such committee may appoint one or more sub-committees.

(2) Subject to the provisions of this section, the number of members of a committee appointed under subsection (1), their term of office, and the area (if restricted) within which the committee are to exercise their functions shall be fixed by the appointing authority or authorities or, in the case of a sub-committee, by the appointing committee.

(3) A committee appointed under subsection (1), other than a committee for regulating and controlling the finance of the local authority or of their district may, subject to section 20, include persons who are not members of the appointing authority or authorities or, in the case of a sub-committee, the authority or authorities of whom they are a sub-committee, but at least two-thirds of the members appointed to any such committee shall be members of that authority or those authorities, as the case may be.

(4) A local authority may appoint a committee, and two or more local authorities may join in appointing a committee, to advise the appointing authority or authorities on any matter relating to the discharge of their functions, and any such committee —

(a) may consist of such persons (whether members of the appointing authority or authorities or not) appointed for such term as may be determined by the appointing authority or authorities; and

(b) may appoint one or more sub-committees to advise the committee with respect to any such matter.

(5) Every member of a committee appointed under this section who at the time of his appointment was a member of the appointing authority or one of the appointing authorities shall upon ceasing to be a member of that authority also cease to be a member of the committee; but for the purposes of this section a member of a local authority shall not be deemed to have ceased to be a member of the authority by reason of retirement if he has been re-elected a member thereof not later than the day of his retirement.

19 Expenses of joint committees

[P1972/70/103]

The expenses incurred by a joint committee of two or more local authorities, whether appointed or established under this Part or any other enactment, shall be defrayed by those authorities in such proportions as they may agree or, in case of disagreement, as may be determined by the Department.[53]

20 Disqualification for membership of committees and disabilities for voting

[P1972/70/104(1) and 105]

(1) Subject to subsection (2), a person who is disqualified for being elected or being a member of a local authority shall be disqualified for being a member of a committee (including a sub-committee) of that authority, or being a representative of that authority on a joint committee (including a sub-committee) of the authority and another local authority, whether the committee or joint committee are appointed under this Part or under any other enactment.

(2) Sections 11 to 14 shall apply as respects members of a committee of a local authority or of a joint committee of two or more local authorities (including in either case a sub-committee), whether the committee or joint committee are appointed or established under this Part or under any other enactment, as they apply in respect of members of local authorities, subject to the following modifications —

(a) references to meetings of any such committee shall be substituted for references to meetings of the local authority; and

(b) in the case of members of a committee of a local authority or any sub-committee the right of persons who are members of the committee or sub-committee, but not members of the local authority, to inspect the book kept under section 13(2) shall be

limited to an inspection of the entries in the book relating to the members of the committee or sub-committee.

21 Officers of local authorities

[P1972/70/113]

(1) Every local authority shall appoint a fit person to hold the office of clerk of the authority (who, in the case of a town district, shall be called the town clerk).

(2) The local authority may appoint such other officers as it thinks necessary for the efficient discharge of its functions.[54]

(3) Every appointment by a local authority under subsection (1) shall be subject to the approval of the Department.[55]

(3A) Without prejudice to subsection (3), where regulations under section 12(5) of the *Audit Act 2006* require a local authority to appoint or nominate an officer for any purposes specified in the regulations, the appointment or nomination shall be subject to the approval of the Department.[56]

(4) A local authority may appoint a deputy clerk for the purposes of acting in the place of the clerk whenever the office is vacant or the clerk is unable to act, and any deputy so appointed shall, when acting as such, have all the functions of the clerk.

(5) If there is no clerk of a local authority, and no deputy clerk, or the clerk or deputy clerk is unable to act, all acts by law authorised or required to be done by or with respect to the clerk may be done by or with respect to a person appointed in that behalf by the chairman of the authority.

(6) A local authority may pay to an officer appointed under this section (including a deputy) such remuneration as it may determine, and every such officer shall hold office during the pleasure of the authority.

(7) Without prejudice to any powers exercisable apart from this subsection, a local authority may enter into an agreement with another local authority for the placing at the disposal of the latter for the purposes of its functions, on such terms as may be provided by the agreement, of the services of officers employed by the former, but shall not enter into any such agreement with respect to any officer without consulting him.

(8) For superannuation purposes service rendered by an officer of a local authority whose services are placed at the disposal of another local authority in pursuance of subsection (7) is service rendered to the authority by whom he is employed, but any such officer shall be treated for the purposes of any enactment relating to the discharge of local authorities' functions as an officer of that other local authority.

22 Security to be taken, and accountability of officers

[P1972/70/114 and 115]

(1) A local authority shall, in the case of an officer appointed or employed by it, whether under this or any other enactment, who by reason of his office or employment is likely to be entrusted with the custody or control of money, and may in the case of any other officer appointed or employed by it, take such security, for the faithful execution of his office and for his duly accounting for all money or property which may be entrusted to him, as the local authority considers sufficient.

(2) A local authority may, in the case of a person not appointed or employed by them but who is likely to be entrusted with the custody or control of money or property belonging to the local authority, take such security as it thinks sufficient for the person duly accounting for all such money or property.

(3) Every officer appointed or employed by a local authority, whether under this or any other enactment, shall at such times during the continuance of his office or within 3 months after ceasing to hold it, and in such manner as the local authority directs, make out and deliver to the authority, or in accordance with its directions, a true account in writing of all money and property committed to his charge, and of his receipts and payments, with vouchers and other documents and records supporting the entries therein, and a list of persons from whom or to whom money is due in connection with his office, showing the amount due from or to each.

(4) Every such officer shall pay all money due from him in accordance with the directions of the local authority.

23 Disclosure by officers of interest in contracts

[P1972/70/117]

(1) If it comes to the knowledge of an officer appointed or employed, whether under this or any other enactment, by a local authority that —

(a) a contract in which the officer has any pecuniary interest, whether direct or indirect (not being a contract to which he or she is himself or herself a party), has been, or is proposed to be, entered into by the authority, or

(b) any other matter in which the officer has such an interest is under consideration by the authority,

the officer shall as soon as practicable give notice in writing to the authority of the fact that he or she is interested in it.[57]

(2) For the purposes of this section an officer shall be treated as having indirectly a pecuniary interest in a contract, proposed contract or other matter if he or she would have been so treated by virtue of section 12 had he or she been a member of the authority.[58]

(3) An officer of a local authority shall not, under colour of his office or employment, accept any fee or reward whatsoever other than his proper remuneration.

(4) Any person who contravenes the provisions of subsection (1) or (3) shall be guilty of an offence and liable on summary conviction to a fine not exceeding £2,500.

24 Provision of offices, premises, etc

[1984/5/9]

(1) A local authority may acquire or provide halls, offices and other buildings or premises for any of the following purposes: —

(a) the transaction of the business of the authority and of its officers and servants;

(b) the exercise of any function of the authority;

(c) the holding of public meetings and assemblies; and

(d) the provisions of recreational facilities of any description.

(2) A local authority may, in relation to any premises acquired or provided for any purpose under subsection (1), —

(a) provide such furnishings or equipment as it considers appropriate for the purpose in question; and

(b) make the premises available for use by such persons, either without charge or on payment of such charges, as the authority thinks fit.

24A Sharing of premises and facilities

(1) Subject to any express provision contained in this Act or any Act passed after this Act, a local authority ("the provider authority") may, with the consent of the Department, enter into arrangements with any other local authority ("the user authority") for the use —

(a) by the user authority,

(b) by residents of the district of the user authority, or

(c) by members, officers or employees of the user authority,

of any buildings, premises or facilities to which this section applies, on such terms, and subject to the payment of such charges, as are specified in the arrangements.

(2) This section applies to any of the following which are, or are intended to be, provided by the provider authority —

(a) any buildings or premises referred to in section 24;

(b) any recreational facilities or entertainment facilities (within the meaning of the *Recreation and Leisure Act 1998*);

(c) any library or museum established under the 1916 Act;

(d) any other buildings, premises or facilities, or any class or description of buildings, premises or facilities, specified for the purposes of this subsection by an order made by the Department.

(3) The consent of the Department under subsection (1) may be given subject to compliance with such conditions as may be specified in the consent.[59]

25 Acquisition and disposal of land

[1976/4/29; 1984/5/10]

(1) A local authority may, subject to the following provisions of this section, purchase, sell, exchange, take on lease or let any land, within or outside its district, for the purpose of its functions under any enactment.

(2) No transaction within subsection (1), other than the letting of any land for a term not exceeding 7 years, shall have effect without the consent of the relevant Department.[60]

(2A) A consent of the relevant Department under subsection (2) may be either —

(a) a general consent, relating to any class or description of transactions within subsection (1), or

(b) a specific consent, relating to a particular transaction within that subsection,

and in either case may be given subject to compliance with such conditions as may be specified in the consent.[61]

(2B) The relevant Department shall lay before Tynwald any general consent under subsection (2).[62]

(3) Subject to subsection (4), a local authority shall —

(a) give public notice of any application for consent under subsection (2), stating particulars of the intended transactions and naming a place in its district where a plan of the land may be inspected at all reasonable hours, for a period of not less than 14 days before the application is made; and

(b) if so required by the relevant Department, cause a like notice to be published in a newspaper published and circulating in the Island.[63]

(4) Where in any case it appears to the relevant Department appropriate to do so, it may dispense with compliance with the requirements of subsection (3).[64]

(5) Where in any case it appears to the relevant Department appropriate to do so, it may direct that an application for consent under subsection (2) shall be referred to Tynwald, and where such a direction is given, that subsection shall have effect with the substitution, for the reference to the

consent of the relevant Department, of a reference to the approval of Tynwald.[65]

(6) Where a local authority purports to dispose of land —

(a) in favour of any person claiming under the authority, the disposal shall not be void by reason that any consent of the relevant Department or approval of Tynwald required by this section has not been given;

(b) a person dealing with the authority, or with a person claiming under the authority, shall not be concerned to see or inquire whether any such consent or approval has been given.[66]

(7) Subsection (6) applies to any disposal or purported disposal of land, whenever effected, and any reference in that subsection to the consent of the relevant Department or approval of Tynwald includes a reference to the approval of Tynwald or of the relevant Department or a predecessor of the relevant Department required by this section as originally enacted or by any enactment repealed by this Act.[67]

(8) [Repealed][68]

(9) In relation to land held by a local authority for the purposes of Part IV of the *Housing Act 1955*, this section has effect subject to the provisions of that Part.

(10) A local authority may acquire land under this section for the purpose of any of its functions, notwithstanding that the land is not immediately required for that purpose, and such land may, until it is so required, be held and used for the purpose of any other function of the authority.

26 Compulsory acquisition of land

A local authority may acquire compulsorily any land for the purpose of its functions under any enactment.

27 Standing orders

[P1972/70/94, 106, 135 and 12/42]

(1) A local authority shall, subject to the provisions of this Act, make standing orders for the regulation of the proceedings and business of the authority and of any committee of the authority.[69]

(2) Where a joint committee of 2 or more local authorities is established (whether under this or any other enactment), those authorities shall, subject to the provisions of this Act, make standing orders for the regulation of the proceedings and business of the committee.[70]

(3) A local authority shall make standing orders with respect to the making of contracts by it or on its behalf for the supply of goods or materials or for the execution of works, and such standing orders —

(a) shall include provision for securing competition for such contracts and for regulating the manner in which tenders are invited;

(b) may exempt from any such provision contracts for a price below a specified sum; and

(c) may authorise the authority to exempt any contract from any such provision where the authority is satisfied that the exemption is justified by special circumstances.

(4) A local authority may make standing orders with respect to the making of contracts (other than contracts referred to in subsection (3)) by it or on its behalf.

(5) A local authority may by standing orders provide for the exclusion of a member of the authority from a meeting of the authority while any contract, proposed contract or other matter in which he has a pecuniary interest, direct or indirect, is under consideration.

(6) In subsection (5), "pecuniary interest" has the same meaning as in section 12.

(7) Where a local authority or committee —

(a) in exercise of any powers conferred by its standing orders, suspends the standing orders or any provision of them, or

(b) acts (or omits to act) in contravention of its standing orders,

then, unless the Department otherwise directs, the authority (in the case of a local authority or a committee of the authority) or the joint committee (in the case of a joint committee) shall cause particulars of the suspension or contravention, and the reasons for it, to be recorded in a book to be kept for the purpose.[71]

(8) The book kept under subsection (7) shall at all reasonable hours be open to the inspection of —

(a) any local government elector for the district of the authority or, in the case of a joint committee, the district of any of the constituent authorities, and

(b) any person authorised for the purpose by the Department,

and any such elector or authorised person may make a copy of or extract from the book.[72]

(9) A copy of the standing orders of a local authority or joint committee shall be open to the inspection of any person —

(a) at all reasonable hours, at the principal office of the authority or committee, and

(b) at any time when the authority or a committee of the authority, or the joint committee, is meeting in public, in the room where the meeting is taking place.[73]

(10) References in this section to a committee or joint committee include references to a sub-committee.[74]

27A Standing orders to be made public

(1) Standing orders made or having effect as if made under section 27 shall be public documents and accordingly shall be made available for inspection or copying by any member of the public during —

(a) normal office hours of the local authority or committee; and

(b) any public meeting of the local authority or committee.

(2) It shall be the duty of a local authority or committee to comply with subsection (1).[75]

PART V – GENERAL PROVISIONS RELATING TO LOCAL AUTHORITIES

Byelaws

28 Byelaws for good rule and government, etc

[P1972/70/235]

(1) A local authority may make byelaws for the good rule and government of the whole or any part of its district, and for the prevention and suppression of nuisances therein.

(2) Byelaws shall not be made under this section for any purposes as respects any area if provision for that purpose as respects that area is or may be made by or under any other enactment.

(3) Byelaws under this section shall cease to have effect on the expiration of 20 years after the date on which they come into operation.

29 Making of byelaws by Department

(1) The Department may make byelaws, either generally or for any district, with respect to any matter for which a local authority may make byelaws, and such byelaws shall apply to every district, or to any such district, as the case may be, so far as there are for the time being no byelaws with respect to that matter made by the local authority in force in the district.[76]

(2) Sections 30 and 55(3) apply to byelaws under this section with the substitution (except in section 30(8)(b)), for references to the local authority, of references to the Department.[77]

30 Procedure, etc for byelaws

[P1972/70/326 and 237]

(1) This section applies to byelaws to be made by a local authority under this or any other enactment, whenever passed, conferring on a local authority power to make byelaws, and for which specific provision is not otherwise made.

(2) The byelaws shall be made under the common seal of the local authority.

(3) The local authority shall, on application, furnish to any person a copy of the byelaws so made, or any part thereof, on payment of such reasonable sum as the authority may determine.

(4) No byelaw shall have effect unless it is approved by Tynwald.

(5) Tynwald may, when approving any byelaw under this section, fix the date on which the byelaw is to come into operation, and if no date is so fixed, the byelaw shall come into operation at the expiration of one month from the date of its approval.

(6) Every byelaw shall, when approved, be printed, and a copy shall be deposited at the principal office of the local authority and be open to public inspection at all reasonable hours without payment. A copy thereof shall, on application, be furnished to any person, on payment of such reasonable sum as the authority may determine.

(7) Byelaws may provide that persons contravening the byelaws shall be liable on summary conviction to a fine not exceeding such sum as may be fixed by the enactment conferring power to make the byelaws or, if no sum is so fixed, the sum of £2,500.

(8) Byelaws regulating the use of any premises may provide —

(a) for the charges to be paid for the use thereof;

(b) for empowering any constable and any officer of the local authority to exclude or remove from the premises any person contravening the byelaws.

(9) A printed copy or abstract of any byelaws regulating the use of any premises or conveyance shall be exhibited in a conspicuous place in such premises or conveyance.

30A Fixed penalty notices for contravention of byelaws

(1) This section applies if it appears to an authorised officer that a person has contravened a byelaw made under a relevant enactment.

(2) The authorised officer may serve on that person a notice offering him or her the opportunity of discharging any liability to conviction for an offence under the byelaw by payment of a fixed penalty.

(3) Where a person is given a notice under this section in respect of an offence —

(a) no proceedings may be instituted for that offence before the expiration of the period of 21 days following the date of the notice; and

(b) he or she may not be convicted of that offence if he or she pays the fixed penalty before the expiration of the period.

(4) A notice under this section must give such particulars of the circumstances alleged to constitute the offence as are necessary for giving reasonable information of the offence.

(5) A notice under this section must also state —

(a) the period during which, by virtue of subsection (3), proceedings will not be taken for the offence;

(b) the amount of the fixed penalty; and

(c) the person to whom and the address at which the fixed penalty may be paid.

(6) Without prejudice to payment by any other method, payment of the fixed penalty may be made by pre-paying and posting a letter containing the amount of the penalty to the person mentioned in subsection (5)(c) at the address so mentioned.

(7) Where a letter is sent in accordance with subsection (6) payment is to be regarded as having been made at the time at which that letter would be delivered in the ordinary course of post.

(8) The form of a notice under this section is to be such as the Department may specify.

(9) The fixed penalty payable to the local authority or to the Department as the case may be under this section is, subject to subsection (10), £100 or such other amount as the Department may specify.

(10) The Department may make provision by order for treating a fixed penalty as having been paid if a lesser amount is paid before the end of a period specified by the Department.

(11) An order under this section does not have effect unless it is approved by Tynwald.

(12) A fixed penalty is recoverable as a civil debt and in any proceedings a certificate which —

(a) purports to be signed by an authorised officer; and

(b) states that payment of a fixed penalty was or was not received by a date mentioned in the certificate,

is evidence of the facts stated.

(13) In this section —

"authorised officer" means an officer of a local authority or the Department who is authorised in writing by the local authority or the Department as the case may be for the purposes of this section;

"relevant enactment" means an enactment, whenever passed, conferring power to make byelaws on a local authority or the Department and for which specific provision is not otherwise made; and

"specified" means specified by order made by the Department.[78]

Notices etc.

31 Service of notices on local authorities

[P1972/70/231]

Any notice, order or other document, other than a document to be given or served in legal proceedings in any court, required or authorised by any enactment to be given to or served on a local authority or the chairman or clerk or other officer of a local authority, shall be given or served by addressing it to the authority and leaving it at, or sending it by post to, the principal office of the authority.

31A Service of notices by local authorities

Section 41 (service of notices) of the *Interpretation Act 1976* applies to each of the Local Government Acts 1916 to 1963, whether or not passed after the 24th May 1949.[79]

32 Public notices

[P1972/70/232]

Save as otherwise expressly provided, a public notice required to be given by a local authority under any enactment shall be given —

(a) by posting the notice in a conspicuous place at the principal office of the authority or, in the case of the local authority for a parish district, at a place in the parish where public notices are normally exhibited; and

(b) in such other places, if any, as appear to the authority to be desirable for giving publicity to the notice.

33 Authentication of documents

[P1972/70/234]

(1) Any notice, order or other document which a local authority are authorised or required by or under this or any other enactment to give, make or issue may be signed on behalf of the authority by the clerk to the authority or a person authorised in that behalf by him or the authority.

(2) Any document purporting to bear the signature (including a facsimile of the signature, by whatever process reproduced) of the clerk to the authority, or of a person authorised in that behalf by him or the authority, shall be deemed, until the contrary is proved, to have been duly given, made or issued by authority of the local authority.

34 Inspection of minutes

[P1972/70/228]

(1) The minutes of proceedings of a local authority shall at all reasonable hours be open to the inspection of any local government elector for the district of the authority, and any such local government elector may make a copy of or extract from those minutes.[80]

(2) The Department may by notice in writing to a local authority require the authority to supply to the Department copies of the minutes of any proceedings specified in the notice of —

(a) the authority;

(b) any committee or sub-committee of the authority which is so specified; or

(c) any joint committee established by the authority and one or more other local authorities which is so specified (including any sub-committee of that committee);

and the local authority shall comply with any such requirement.[81]

Powers of entry etc.

35 Powers to enter on land

[P1936/49/287]

(1) This section applies to an enactment by or in relation to which it is provided that this section shall apply (in this section called "the relevant enactment").

(2) A director of public health or a person authorised in writing by a relevant Department or a local authority may, at any reasonable time, enter on any land for the purpose —

(a) of ascertaining whether there is, or has been, on or in connection with the land any contravention of the provisions of the relevant enactment; or

(b) of ascertaining whether or not circumstances exist which would authorise or require the relevant Department or the authority to take any action, or execute any work, under the relevant enactment; or[82]

(c) of taking any action, or executing any work, authorised by the relevant enactment to be taken or executed by the relevant Department or the authority; or[83]

(d) generally, of the performance by the relevant Department or the authority of their functions under the relevant enactment.[84] [85]

(3) A person empowered to enter on land under subsection (2) —

(a) shall, if so required before or after entering on the land, produce evidence of his authority to enter;

(b) may take with him on to the land such other persons and such equipment as are necessary for the purpose in question;

(c) shall not, if the land is occupied, demand admission to the land as of right unless notice of the intended entry has been served on the occupier not less than 24 hours before the demand;

(d) shall, if the land is unoccupied when he enters or the occupier is then temporarily absent, leave the land as effectually secured against trespassers as he found it; and

(e) shall not (except in pursuance of a warrant under subsection (4)) enter any dwelling on the land which is occupied.

(f) [86]

(4) If it is shown to the satisfaction of a justice of the peace that —

(a) admission to any land has been refused; or

(b) refusal of admission is apprehended; or

(c) the land is unoccupied; or

(d) the occupier of the land is temporarily absent; or

(e) the case is one of urgency; or

(f) an application for admission would defeat the object of the entry;

and that there is reasonable ground for entry on the land for a purpose mentioned in subsection (2), the justice may by warrant authorise a director of public health or a person authorised in writing by a relevant Department or a local authority to enter on the land, by force if need be.[87]

(5) No warrant under subsection (4) shall be made on the ground mentioned in subsection (4)(a), (b) or (e) unless the justice is satisfied that notice of the director of public health's, relevant Department's or local authority's intention to apply for the warrant has been given to the occupier.[88]

(6) A warrant under subsection (4) shall continue in force until the purpose for which entry is necessary has been satisfied.

36 Offences in connection with entry, etc

[P1976/57/15]

(1) If a person —

(a) intentionally obstructs another person in the exercise of a power conferred on the other person by section 35; or

(b) while another person is on any land in pursuance of section 35(3)(b), intentionally obstructs him in doing things connected with the survey in question;

he shall be guilty of an offence and liable on summary conviction to a fine not exceeding £1,000.

(2) If a person who has entered on any land in pursuance of section 35 discloses to another person information obtained by him there about a manufacturing process or trade secret, then, unless the disclosure is made in the course of performing his duty in connection with the purposes for which he was authorised to enter on the land, he shall be guilty of an offence and liable, on summary conviction, to a fine not exceeding £5,000 or, on conviction on information to imprisonment for a term not exceeding 2 years or a fine or both.

37 Power to obtain particulars of owners, etc of land

[P1976/57/16]

(1) Where, with a view to performing a function conferred on a local authority by any enactment, the authority considers that it ought to have information connected with any land, the authority may serve on one or more of the following persons, namely —

(a) the occupier of the land; and

(b) any person who has an interest in the land either as freeholder, mortgagee or lessee or who directly or indirectly receives rent for the land; and

(c) any person who, in pursuance of an agreement between himself and a person interested in the land, is authorised to manage the land or to arrange for the letting of it,

a notice specifying the land and the function and the enactment which confers the function and requiring the recipient of the notice to furnish to the authority, within a period specified in the notice (being not less than 7 days from the date of service of the notice), the nature of his interest in the land and the name and address of each person whom he believes is the occupier of the land and of each person whom he believes is, as respects the land, such a person as is mentioned in paragraphs (b) and (c).

(2) A person who —

(a) fails to comply with the requirements of a notice served on him in pursuance of subsection (1); or

(b) in furnishing any information in compliance with such a notice makes a statement which he knows to be false in a material

particular or recklessly makes a statement which is false in a material particular,

shall be guilty of an offence and liable on summary conviction to a fine not exceeding £5,000.

Miscellaneous

38 Power to execute works on behalf of owners, etc

[P1936/49/275]

Where a local authority has, under any enactment, required the owner or occupier of any land to execute works, the authority may by agreement with him execute any such works on his behalf and at his expense, and for that purpose shall have all such rights as he would have.

39 Power to dispose of things removed

[P1936/49/276]

Where a local authority, in carrying out any works pursuant to any enactment, removes anything from any land or premises, the authority —

(a) shall, subject to the payment of the expenses of removal, deliver it to the owner on a claim made by him within 7 days of removal; or

(b) may, if the thing is not claimed by the owner within that time, or if the authority considers that it is of little or no value or cannot reasonably be kept for that time, dispose of it in such manner as it thinks fit, but if the authority sells the thing, it shall pay the proceeds of sale to the owner, less any expenses of removal and sale.

40 Obstruction

[P1936/49/288]

Any person who intentionally obstructs any member or officer of a local authority, or any person acting under the direction of a local authority, in the exercise of any functions of the authority under any enactment shall, in the case for which no other provision is made by an enactment, be guilty of an offence and liable on summary conviction to a fine not exceeding £2,500.

41 Protection of members and officers of local authorities

[P1875/55/265]

(1) Nothing done by a member or officer of a local authority, or by any person acting under the direction of the authority, shall, if the act were done in good faith for the purposes of the functions conferred on the authority by any enactment, subject him personally to any action, liability, claim or demand, and any expense incurred by any such

member, officer or other person shall be paid out of the fund applicable by the authority for those purposes.

(2) [Repealed][89]

PART VI – FINANCIAL PROVISIONS

42 District and special funds

[P1972/70/148]

(1) The local authority for every town district shall keep a fund, to be known as the town fund (or, in the case of the borough, the borough fund), and the local authority for every other district shall keep a fund, to be known as the district fund, and a reference in any enactment (including this Act) to the district fund of a local authority shall be construed as a reference to the town fund, borough fund or district fund, as the case may be, of that authority.

(2) Where any part of a local authority's district is constituted a special district, the authority shall keep a special fund for the purposes for which the special district is constituted.

(3) Save as provided by subsections (4) and (5) and section 43, all receipts of a local authority shall be carried to the district fund, and all expenses and liabilities falling to be paid or discharged by the authority shall be discharged out of that fund.

(4) The following moneys, that is to say —

(a) all rates leviable for the purpose for which a special district is constituted;

(b) all loans raised for that purpose;

(c) all sums receivable for any supply or service in connection with that purpose;

(d) all expenses incurred (including interest on and the repayment of loans raised) for that purpose;

shall be carried to, or discharged out of, the special fund kept for that purpose, as the case may be.

(5) The Department may by order direct that a local authority keep a fund for a purpose specified in the direction, and that such receipts and expenses as may be so specified shall be carried to, or discharged out of, the fund kept for that purpose, as the case may be.[90]

43 Other funds

[P1972/70/13/15 and 19; P1976/57/28]

(1) A local authority may, with the consent of the Department, keep a loans fund for defraying any expenditure which the authority is authorised by or under any enactment to meet out of moneys borrowed by it, and for the repayment or redemption of debt.[91]

(2) Subject to subsections (3) and (3A), a local authority may, with the consent of the Department, keep such other funds as the authority considers appropriate for the purpose of meeting any expenditure of the authority in connection with its functions, and may carry to such fund such payments as the authority thinks fit.[92]

(3) Nothing in subsection (2) authorises a local authority to establish a superannuation fund or a fund for purposes for which the authority is required to maintain a fund by virtue of any enactment.

(3A) The Department may from time to time direct that a fund established by a local authority as a reserve shall not exceed such amount as may be specified in the direction; and where such a fund exceeds any amount for the time being so specified, the authority shall take such steps as may be necessary to reduce the amount of the fund accordingly.[93]

(3B) The Department shall lay before Tynwald any direction under subsection (3A).[94]

(4) Pending the application of any fund established under subsection (2), the money therein shall, until it is applied for the purposes of the fund or in a manner authorised by an enactment, be invested in securities in which trustees are for the time being authorised by law to invest trust moneys.

(5) Subject to subsections (7) to (9), but notwithstanding anything in any other enactment, a local authority may use, for any purpose for which the authority has a statutory power to borrow, any money forming part of, but not for the time being required for the purposes of, any fund of the authority to which this subsection applies.

(6) Subsection (5) applies to any fund established —

(a) for the repayment of debt;

(b) as a reserve;

(c) for the maintenance, renewal or repair of property;

(d) for superannuation of officers or servants of the local authority or other local authorities;

(e) for meeting future expenditure of a capital or non-recurring nature.

(7) Any money used pursuant to subsection (5) shall be repaid as and when it is required for the purposes of the fund in question, and if not so required to be paid earlier, it shall be repaid within the period within

which a loan (other than a temporary loan or overdraft), raised under a power to borrow conferred by any enactment, would be repayable.

(8) The repayment of money under subsection (7) shall be made out of the district fund, or out of money which would have been applicable to the repayment of such loan as is mentioned in subsection (7), and shall be made by the method by which such a loan would be repayable.

(9) In the accounts of the district fund, an amount equal to interest on money used pursuant to subsection (5) and for the time being not repaid, at the rate which the local authority determines to be equal (as nearly as may be) to the rate of interest payable on such a loan as is mentioned in subsection (7), shall be credited to the relevant fund and debited to the purpose for which the money is so used.

(10) The powers conferred by subsections (5) to (9) are in addition to, and not in derogation of, the powers conferred by or under any other enactment.

44 Expenses and accounts

[P1972/70/147]

(1) All expenses of a local authority shall be general expenses chargeable on the whole of its district, except those which are by virtue of an enactment special expenses chargeable exclusively on part of the district.

(2) In determining the amount of any expenses, whether general or special, a local authority may add to those expenses a proper proportion of the administrative and overhead expenses of the authority.

(3) Where any expenses of a local authority are special expenses, the authority may contribute as part of its general expenses such sums as they may, with the approval of the Department, determine, and shall treat the remainder as special expenses.[95]

(4) A local authority shall keep proper accounts for each financial year, and shall keep separate accounts in respect of the different funds of the authority.

45 Inspection of accounts

Any officer of the Department, any ratepayer, any local government elector for the district of a local authority and any creditor of the authority may at all reasonable times inspect and make extracts or copies from the books of account of the authority.[96]

46 Recovery of expenses

[P1936/49/291; P1980/66/305]

(1) This section applies to any expenses incurred in respect of any premises by a local authority which it is empowered by any enactment or by agreement to recover from the owner of the premises, other than

expenses for the recovery of which provision is made by another enactment.

(2) The local authority may recover the expenses from the owner for the time being of the premises, together with interest, at the statutory rate at the date of service of a demand in writing for the expenses, from the date of such demand until payment thereof.

(3) Any expenses to which this section applies, together with interest under subsection (2), shall be charged on the premises, and on all estates and interests therein, from the date of such demand until payment.

(4) A local authority may resolve that any expenses shall be payable with interest as aforesaid by instalments, within a period not exceeding 10 years, until the whole amount is paid; and any such instalments and interest, or any part thereof, may be recovered from the owner or occupier for the time being of the premises in respect of which the expenses were incurred.

(5) A resolution may be passed under subsection (4) at any time with respect to any unpaid balance of expenses and accrued interest so, however, that the period for repayment shall not in any case extend beyond 10 years from the service of the first demand for the expenses.

(6) In subsection (2) "the statutory rate" means the rate from time to time prescribed by order of the Treasury for the purposes of this section.[97]

47 Recovery of expenses where owner cannot be found

(1) If the owner of any premises in respect of which expenses to which section 46 applies have been incurred cannot, after all reasonable steps have been taken, be found within the Island, the local authority may take such premises, after giving 28 days' notice of their intention to do so by posting a notice in a conspicuous place on the premises.

(2) The *Acquisition of Land Act 1984* (except Part II) shall apply to the taking of premises under this section as it applies to the compulsory purchase of land, except that this section shall be deemed to be the special Act, and on payment or deposit of the compensation in accordance with that Act the local authority may deduct therefrom the amount of the expenses, with interest in accordance with section 46(2).

48 Limitation of liability of certain owners

[P1936/49/294]

Where a local authority claims to recover any expenses from a person as being the owner of the premises in respect of which the expenses were incurred and that person proves that he —

(a) is receiving the rent of those premises merely as agent or trustee from some other person; and

(b) has not, and since the date of the service on him of a demand for payment has not had, in his hands on behalf of that other person sufficient money to discharge the whole demand of the authority,

his liability shall be limited to the total amount of the money which he has or has had in his hands as aforesaid, but a local authority who is, or would be, debarred by this section from recovering the whole of any such expenses from an agent or trustee may recover the whole or any unpaid balance thereof from the person on whose behalf the agent or trustee receives the rent.

49 Recovery of establishment charges

[P1974/7/36]

In any case where a local authority is empowered under any enactment to carry out any works in respect of any premises and to recover from any person expenses thereby incurred by them, the authority shall be entitled to recover, together with such expenses, such sum as appears to it to be reasonable in respect of its administrative and overhead expenses.

50 Local authority securities

[P1972/70/13/4]

(1) The relevant Department, with the consent of the Treasury, may by regulations —

(a) prescribe the form of any securities to be created or issued by a local authority for the purpose of borrowing by the authority;

(b) regulate the creation or issue of such securities, including the terms on which they are to be created or issued and the priority thereof;

(c) regulate the registration, transfer, dealing with and redemption of such securities;

(d) provide for the inspection of registers and accounts relating to such securities;

(e) modify with respect to such securities the provisions of any enactment relating to the powers of investment of trustees;

(f) provide that the authority shall not be affected by notice of any trust affecting any such securities;

(g) repeal any enactment contained in —

(i) sections 372 to 395 of, and Schedule VI to, the 1916 Act;

(ii) Part III of the *Douglas Water and Loans Act 1890*;

(iii) the *Douglas Stock Act 1895*;

(h) make such consequential, incidental, transitional or supplemental provision as appears to the relevant Department to be necessary or proper for any of the above purposes.[98] [99]

(2) In this section "securities" includes mortgages, debentures, annuities, bills, stocks and bonds.

51 Borrowing powers

[1984/10/10]

(1) A local authority may, subject to the following provisions of this section, borrow any sum of money necessary for defraying expenses incurred for —

(a) the purchase of any land for the purpose of any of its functions;

(b) the carrying out of any works of a permanent character in the execution of any of its functions;

(c) the repayment of any money previously borrowed; or

(d) with the consent of the relevant Department, any other purpose;[100]

and may charge the repayment of such sum on the district fund or on any property or revenues of the authority.

(2) No money may be borrowed under this section, or charged on any fund, property or revenues of a local authority, without the consent of the relevant Department.[101]

(2A) A consent of the relevant Department under subsection (2) may be either —

(a) a general consent, relating to any class or description of transaction within subsection (1), or

(b) a specific consent, relating to a particular transaction within that subsection,

and in either case may be given subject to compliance with such conditions as may be specified in the consent.[102]

(2B) A general consent under subsection (2A) shall not have effect unless it is approved by Tynwald.[103]

(2C) If a local authority fails to comply with any condition imposed under subsection (2A), the relevant Department may apply to the High Court for an order enforcing compliance with it.[104]

(3) Subject to subsection (4), a local authority shall —

(a) give public notice of any application for consent under subsection (2) for a period of not less than 14 days before the application is made; and

(b) if so required by the relevant Department, cause a like notice to be published in a newspaper published and circulating in the Island.[105] [106]

(4) Where in any case it appears to the relevant Department appropriate to do so, it may dispense with compliance with the requirements of subsection (3).[107]

(4A) The relevant Department may by regulations provide that the foregoing provisions of this section shall apply, subject to such modifications as may be specified in the regulations, to any class or description of transactions so specified, being transactions (other than the borrowing of money or a transaction within section 25(1)) which are entered into by a local authority and by virtue of which the authority is, or will be or may become, liable to pay money to any person.[108]

(5) to (8) inclusive [Repealed][109]

52 Temporary borrowing

[P1972/70/13/10]

(1) A local authority may borrow by way of temporary loan or overdraft from a bank or otherwise any sums which it may temporarily require —

(a) for the purpose of defraying expenses (including the payment of sums due by it to meet the expenses of other bodies) pending the receipt of revenues receivable by it in respect of the financial year in which those expenses are chargeable;

(b) for the purpose of defraying, pending the raising of a loan which the authority has been authorised to raise, expenses intended to be defrayed by means of a loan.

(2) Where a local authority borrows money under this section for a purpose mentioned in subsection (1)(b), the loan shall, to the extent of the sum borrowed temporarily, be treated for the purpose of this Part as having been made at the time of the temporary borrowing.

(3) Any sum borrowed under this section in respect of the current expenses of any financial year shall be repaid before the expiry of the year during which it is borrowed.

(4) Any other sum borrowed under this section shall, unless the relevant Department otherwise directs, be repaid not later than 6 months after the expiry of the financial year in which it is borrowed.[110]

PART VII – LEGAL PROCEEDINGS

53 Appearance by local authorities

[P1972/70/223]

Any member or officer of a local authority who is authorised by that authority to prosecute or defend on its behalf, or to appear on its behalf in, proceedings before a court of summary jurisdiction shall be entitled to prosecute or defend

or to appear in any such proceedings and, notwithstanding anything in the Advocates Acts 1826 to 1976, to conduct any such proceedings although he is not qualified to act as an advocate.

54 Extent, etc of district need not be proved

In any proceedings by or against a local authority, it shall not be necessary for the plaintiff to prove the constitution or limits of the authority's district, but this section shall not prejudice the right of a defendant to take any objection relating to such constitution or limits.

55 Evidence of minutes, etc

[P1972/70/238; P1976/57/41]

(1) A document which —

(a) purports to be a copy of —

(i) a resolution, order or report of a local authority or committee or sub-committee of a local authority, or

(ii) the minutes of the proceedings at a meeting of a local authority or committee or sub-committee of a local authority; and

(b) bears a certificate purporting to be signed by the clerk of the local authority or a person authorised in that behalf by him or the authority and stating that the resolution was passed or the order or report was made by the authority or committee or sub-committee of the authority on a date specified in the certificate or, as the case may be, that the minutes were signed in accordance with paragraph 9 of Schedule 1 (or the corresponding provision specified in the certificate of the enactments relating to local government in force when the minutes were signed),

shall be evidence in any proceedings of the matters stated in the certificate and of the terms of the resolution, order, report or minutes.

(2) A document which —

(a) purports to be a copy of an instrument by which a local authority or an officer of a local authority appointed a person to be an officer of the authority or authorised a person to perform functions specified in the instrument; and

(b) bears a certificate purporting to be signed as mentioned in subsection (1)(b) and stating that the document is a copy of the instrument in question,

shall be evidence in any proceedings of the fact that the instrument was made by the authority or officer and of the terms thereof.

(3) The production of a printed copy of a byelaw purporting to be made by a local authority upon which is endorsed a certificate purporting to be signed as mentioned in subsection (1)(b) and stating —

(a) that the byelaw was made by the authority;

(b) that the copy is a true copy of the byelaw;

(c) that on a specified date the byelaw was confirmed by the authority named in the certificate;

(d) the date, if any, fixed by the confirming authority for the coming into operation of the byelaw;

shall be evidence in any proceedings of the facts stated in the certificate.

56 Judges, etc not to be disqualified

[P1936/49/304]

A judge of any court or a justice of the peace shall not be disqualified from acting in any case to which a local authority is a party by reason only of his being as one of several ratepayers, or as one of any other class of persons, liable in common with the others to contribute to, or be benefited by, any rate or fund out of which any expenses of the local authority are to be defrayed.

57 Power to require occupier to permit works to be executed by owner

[P1936/39/289]

If on a complaint made by the owner of any premises, it appears to the High Bailiff that the occupier of those premises prevents the owner from executing any work which a local authority has, under any enactment, required him to execute, the High Bailiff may order the occupier to permit the execution of the work.

58 Appeals against, and enforcement of, notices requiring execution of works

[P1936/49/290]

(1) The following provisions of this section shall, subject to any express modifications specified in the enactment under which the notice is given, apply in relation to any notice requiring the execution of works and given by a local authority under any enactment.

(2) Any such notice shall indicate the nature of the works to be executed, and state the time within which they are to be executed.

(3) A person served with such a notice may appeal to the High Bailiff on any of the following grounds which are appropriate in the circumstances of the particular case: —

(a) that the notice or requirement is not justified by the terms of the enactment under which it purports to have been given or made;

(b) that there has been some informality, defect or error in, or in connection with, the notice;

(c) that the authority has refused unreasonably to approve the execution of alternative works, or that the works required by the notice to be executed are otherwise unreasonable in character or extent, or are unnecessary;

(d) that the time within which the works are to be executed is not reasonably sufficient for the purpose;

(e) that the notice might lawfully have been served on the occupier of the premises in question instead of on the owner, or on the owner instead of on the occupier, and that it would have been equitable for it to have been so served;

(f) where the works are for the common benefit of the premises in question and other premises, that some other person, being the owner or occupier of premises to be benefited, ought to contribute towards the expenses of executing any works required.

(4) If and in so far as an appeal under this section is based on the ground of some informality, defect or error in or in connection with the notice, the High Bailiff shall dismiss the appeal, if he is satisfied that the informality, defect or error was not a material one.

(5) Where the grounds upon which an appeal under this section is brought include a ground specified in paragraph (e) or (f) of subsection (3) or any other ground in respect of which it is provided by the enactment in question that this subsection shall apply, the appellant shall serve a copy of his notice of appeal on each other person referred to, and in the case of any appeal under this subsection may serve a copy of his notice of appeal on any other person having an estate or interest in the premises in question, and on the hearing of the appeal the High Bailiff may make such order as he thinks fit with respect to the person by whom any work is to be executed and the contribution to be made by any other person towards the cost of the work, or as to the proportions in which any expenses which may become recoverable by the local authority are to be borne by the appellant and such other person.

(6) In exercising his powers under subsection (5), the High Bailiff shall have regard —

(a) as between an owner and an occupier, to the terms and conditions, whether contractual or statutory, of the tenancy or other agreement or arrangement and to the nature of the works required; and

(b) in any case, to the degree of benefit to be derived by the different persons concerned.

(7) Subject to any order made on appeal, if the person required by the notice to execute works fails to comply therewith within the time thereby limited, —

(a) he shall be guilty of an offence and liable on summary conviction to a fine not exceeding £5,000 and to a further fine not exceeding £50 for each day on which the default continues after conviction therefor; and[111]

(b) the local authority may itself execute the works and recover from that person the expenses reasonably incurred by it in so doing.

(8) In proceedings by a local authority against any person —

(a) for an offence under subsection (7)(a); or

(b) for the recovery of any expenses which the authority is entitled to recover from him,

it shall not be open to him to raise any question which he could have raised on an appeal under this section.

(9) Section 35 (powers of entry) applies to subsection (7)(b).

(10) In this section "execution of works" includes the doing of any thing or the taking of any steps, and "work" and "works" shall be construed accordingly.

59 Appeals, etc to court of summary jurisdiction

[P1936/49/300]

(1) Where any enactment (including this Act) provides —

(a) for an appeal to a court of summary jurisdiction against a requirement, refusal or other decision of a local authority; or

(b) for any matter to be determined by, or an application in respect of any matter to be made to, a court of summary jurisdiction;

the procedure shall be by way of an application for an order.[112]

(2) Except where otherwise provided by such enactment, the time within which any such appeal may be brought shall be 21 days from the date on which notice of the local authority's requirement, refusal or other decision was served on the person desiring to appeal, and for the purposes of this subsection the making of the application shall be deemed to be the bringing of the appeal.[113]

(3) In any case where such an appeal lies, the document notifying the person concerned of the requirement, refusal or other decision of the local authority in the matter shall state the right of appeal and the time within which such an appeal may be brought.

60 Effect of decision of court

[P1936/49/302]

Where upon an appeal to a court against a decision of a local authority the court varies or reverses that decision, the authority shall give effect to the order of the court, and in particular shall grant or issue any necessary consent, certificate or other document, and make any necessary entry in any register.

61 Arbitration

(1) Subject to subsection (2), where by or under any enactment it is provided that a dispute to which a local authority is a party shall be settled by arbitration, the reference shall be to two arbitrators, one to be appointed by the local authority and the other by the other party or parties, and the *Arbitration Act 1976* shall apply thereto.

(2) Nothing in this section applies to a matter which is to be determined in accordance with Part III of the *Acquisition of Land Act 1984*.

62 Compensation for land, etc

(1) In any case where no express provision for compensation is made by an enactment empowering a local authority to take or use land for the purpose of any public works, or to execute any such works, the authority shall pay to the owners and occupiers of, and all other persons interested in, any land so taken or used, or injuriously affected by the construction or maintenance of such works, or otherwise by the exercise of such powers, compensation for the value of the land so taken or used, and for all damage sustained by those owners, occupiers or other persons by reason of the exercise of those powers.

(2) The amount of such compensation shall, in case of dispute, be determined in accordance with Part III of the *Acquisition of Land Act 1984*.

63 Offences by corporations

[P1974/37/37]

(1) Where an offence committed by a body corporate under any enactment which a local authority is under a duty or has power to enforce is proved to have been committed with the consent or connivance of, or to have been attributable to any neglect on the part of, any director, manager, secretary or other similar officer of the body corporate or a person who was 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) shall apply 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.

PART VIII - MISCELLANEOUS AND SUPPLEMENTAL

64 Charities

(1) A local authority may —

(a) be constituted trustee for any charity or endowment (whenever constituted);

(b) accept any property given to it as a charity or endowment or upon trust for any purposes in connection with the charity or endowment; and

(c) act as sole trustee of any charity or endowment (notwithstanding that more than one trustee was either originally appointed or substituted, and whether such trustees were appointed by the Court or otherwise).

(2) The trustees of any charity or endowment may transfer or convey any endowment to a local authority, and the authority may accept such transfer or conveyance and shall thereafter be the trustee thereof.

(3) On the application of the trustees of any charity or endowment, the Court may modify the trusts relating to the appointment, qualification and retirement of trustees to enable a local authority to act as trustee thereof.

(4) In this section "the Court" has the same meaning as in the *Charities Act 1962*.

65 Disclosure of information

[1976/6/4/3 and 16]

Any member or former member of a local authority who, without the consent of the authority, divulges any information communicated to him in confidence as such member shall be guilty of an offence and liable on summary conviction to a fine not exceeding £1,000.

66 Honorary freedom of borough

[P1972/70/249]

(1) The council may from time to time, by the authority of not less than two-thirds of their number present and voting at a meeting of the council specially convened for the purpose with notice of the object, admit to be honorary freemen of the borough persons of distinction and any persons who have, in the opinion of the council, rendered eminent services to the borough.

(2) The admission of such person to be a freeman shall not confer on him the right of voting in any election, or of sharing in the benefit of any land or stock of the borough or of the Corporation, or of any property held wholly or partly on any charitable trust.

67 Insignia of office

(1) A local authority may provide for the use of their chairman and vice-chairman and their respective consorts suitable chains, badges or other insignia of office, and may cause the names of the holders of such offices to be engraved thereon and any necessary repairs to be done to such insignia so provided or otherwise acquired by them.

(2) In this section, "vice-chairman" includes the deputy mayor.

68 Application to joint boards

(1) The provisions of this Act specified in Schedule 3 shall apply to a joint board as they apply to a local authority, subject to the modifications and adaptations there specified.

(2) References in any such provision to a local authority or to the district of a local authority shall, in its application to a joint board, be construed as references to the joint board or to the area for which the joint board is established or exercises its functions, as the case may be.

(3) This section has effect subject to the provisions of an order made after the commencement of this section under which a joint board is established, including an order so made and varying or amending a public document made before the commencement of this Act.

(4) Where a provision of a public document establishing a joint board and made before the commencement of this section is inconsistent with any provision of this Act, as applied by subsections (1) and (2), the latter provision shall prevail over the former, and any doubt or dispute arising under this subsection shall be referred to the Department, whose decision shall be final.[114]

69 Powers to be cumulative

All powers conferred on a local authority by any enactment shall be deemed to be in addition to and not in derogation of any other powers conferred by any other enactment or by law or custom.

70 Exercise of functions by relevant Department

Where by any enactment passed after this Act it is provided that functions conferred by the enactment upon a local authority shall also be exercisable by the relevant Department, then sections 36 to 41, 46 to 49 and 57 to 62 shall have effect in relation to functions of the relevant Department under that enactment with the substitution, for references to a local authority, of references to the relevant Department.[115]

71 Regulations

(1) The relevant Department may by regulations prescribe anything which is required by this Act to be prescribed.[116]

(2) Regulations made by the relevant Department under this Act shall not have effect unless they are approved by Tynwald.[117]

72 Interpretation

In this Act —

"**the 1916 Act**" means the *Local Government Consolidation Act 1916*;

"**the Board**" [Repealed][118]

"**borough**" means the borough of Douglas;

"**chairman**", in relation to the Corporation, means the mayor;

"**commissioner**" means a commissioner for a district (other than the borough);

"**constituent authority**", in relation to a joint board or joint committee, means any of the local authorities or other bodies by whom the members of the board or committee are appointed;

"**the council**" means the council of the borough;

"**councillor**" means a councillor of the borough;

"**the Department**" means the Department of Infrastructure;[119]

"**director of public health**" means a person nominated under section 1 as a director of public health or deputy director of public health;[120]

"**financial year**" means a year ending on 31st March;

"**functions**" includes powers and duties;

"**inspector of the Department**" [Repealed][121]

"**joint board**" means a joint board established or deemed to be established by an order under section 7;

"**joint committee**" means a committee appointed by one or more local authorities under section 17 or another enactment, but does not include a joint board which is a body corporate;

"**local authority**" means, in relation to the borough, the corporation, and, in relation to any other district, the commissioners of the district;

"**1ocal government elector**", in relation to any district, means a person who is registered in the register of electors for that district;

"**member**", in relation to a local authority, means a councillor or commissioner, and includes the chairman and vice-chairman of the authority;[122]

"**parish district**" means a parish, excluding any parish or part of a parish which is for the time being included in a town district or a village district;

"**prescribed**" means prescribed by regulations made by the Department;[123]

"**public body**" includes —

(a) a Department, a Statutory Board and a board constituted by or under any enactment;[124]

(b) a local authority, a joint board and a joint committee;

"**quarter**" means a period of 3 months ending on the 31st March, 30th June, 30th September or 31st December;

"**ratepayer**", in relation to any local authority or district, means any person who, as owner or occupier of property, is liable to payment of rates of the local authority, or to the local authority for the district, as the case may be;

"**register of electors**", in relation to a district, means the register of electors to vote at any election of members of the local authority for the district, or the registers of electors to vote at any such election in the respective wards of the district, as the case may be;

"**relevant Department**" means any of the Department of Environment, Food and Agriculture, the Department of Infrastructure and the Department of Health and Social Care;[125]

"**special district**" means a part of a district upon which expenses of a local authority or a joint board may, by virtue of an order under section 7 or 8 or of another enactment, be exclusively charged;

"**special expenses**" means expenses of a local authority or joint board which, by virtue of an order under section 7 or 8 or of another enactment, may be exclusively charged on part of a district;

"**statutory undertakers**" means persons authorised by or under any statutory provision to carry on any of the following undertakings, that is to say —

(a) a railway, tramway or lighthouse undertaking;

(b) an undertaking for the supply of gas, water, electricity or heating;

(c) a telecommunication system; or

(d) a public sewerage system;[126]

"**telecommunication system**" has the meaning given by section 2(1) of the *Telecommunications Act 1984*;

"**town district**" means a district for the time being constituted a town district;

"**village district**" means a district for the time being constituted a village district.

73 Interpretation of other legislation

Where any enactment provides that this section shall apply thereto, then in that enactment (unless the context otherwise requires or the enactment otherwise provides) —

"**building**" includes any structure or erection of any kind whatever, and every part of a building;

"**drain**" means any drain used for the drainage of one building only, or premises within the same curtilage, and made merely for the purpose of communicating therefrom with a cesspool, or other like receptacle for drainage, or with a sewer into which the drainage of 2 or more buildings or premises occupied by different persons is conveyed;

"**occupier**" includes a tenant and a sub-tenant, and any person in actual occupancy of premises, except a lodger or a person in the occupation as tenant of a furnished house or room let for a less period than one year, but includes the person by whom such a furnished house or room is so let;

"**owner**" includes joint or part owner, or any person in the actual receipt or possession of the rents of premises, whether on his own account or on account of or as agent or trustee for any other persons, or who would receive the same if such premises were let at a rack rent;

"**premises**" includes any house, tent, van, ship or vessel, and any other premises used for human habitation;

"**sewer**" means sewers and drains of any description, except drains as defined above;

"**street**" includes any road, footway, bridge, land, square, court, alley, thoroughfare or passage.

74 Transitional provisions and amendments

(1) The transitional provisions contained in Schedule 4 shall have effect.

(2) The enactments specified in Schedule 5 are amended as provided in that Schedule.

(3) [Repealed][127]

75 Short title and commencement

(1) This Act may be cited as the Local Government Act 1985.

(2) This Act shall come into force on such day as the Board may by order appoint, and different days may be so appointed for different provisions of this Act.[128]

SCHEDULE 1

MEETINGS AND PROCEEDINGS OF LOCAL AUTHORITIES

Section 10(1)[P1972/70/12/1-6, 39- 45]

Annual meeting

1. (1) A local authority shall in every year hold an annual meeting.

(2) The annual meeting of a local authority shall be held on such day in the month of May as the authority may fix.[129]

(3) An annual meeting of a local authority shall be held at such hour as the authority may fix, or if no hour is so fixed, in the case of the corporation, at 2 p.m., and in any other case, at 6 p.m.

Other ordinary meetings

2. (1) A local authority shall in every year hold, in addition to the annual meeting, a meeting in each quarter in which the annual meeting is not held and may hold such other meetings as it may determine.

(2) The meetings referred to in this paragraph shall be held at such hour and on such days as the authority may fix.

Extraordinary meetings

3. (1) An extraordinary meeting of a local authority may be called at any time by the chairman of the authority or by the clerk to the authority.

(2) If the chairman refuses to call an extraordinary meeting of a local authority after a requisition for that purpose, signed by at least one-third of the members of the authority, has been presented to him, or if, without so refusing, the chairman does not call an extraordinary meeting within 7 days after the requisition has been presented to him, then at least one-third of the members of the authority, on that refusal or on the expiration of those 7 days, as the case may be, may forthwith call an extraordinary meeting of the authority.

Time and place of meetings

4. (1) Meetings of a local authority shall be held at such place, either within or without its area, as it may direct.

(2) Three clear days at least before a meeting of a local authority, a summons to attend the meeting, specifying the business proposed to be transacted thereat, and signed by the clerk of the authority, shall, subject to sub-paragraph (3), be left at or sent by post to the usual place of residence of every member of the authority.

(3) If a member of a local authority gives notice in writing to the clerk of the authority that he desires summonses to attend meetings of the authority to be sent to him at some address specified in the notice other than his place of residence, any summons addressed to him and left at or sent by post to that address shall be deemed sufficient service of the summons.

(4) Want of service of a summons on any member of a local authority shall not affect the validity of a meeting of the authority.

(5) Except in the case of business required by or under this or any other enactment to be transacted at the annual meeting of a local authority and other business brought before that meeting as a matter of urgency in accordance with the authority's standing orders, no business shall be transacted at a meeting of the authority other than that specified in the summons relating thereto.

Chairing of meetings

5. (1) At a meeting of a local authority the chairman, if present, shall preside.

(2) If the chairman is absent from a meeting of a local authority, the vice-chairman, if present, shall preside.

(3) If —

(a) in the case of the corporation, the mayor is absent from a meeting of the council;

(b) in any other case, both the chairman and vice-chairman are absent from a meeting of the authority;

another member of the authority chosen by the members of the authority present shall preside.

Quorum

6. (1) Subject to sub-paragraph (2) no business shall be transacted at a meeting of a local authority unless at least one-half of the whole number of members of the authority are present.

(2) Where more than one-third of the members of a local authority become disqualified at the same time, until the number of members in office is increased to not less than two-thirds of the whole number of members of the authority, the quorum of the authority shall be determined by reference to the number of members of the authority remaining qualified instead of by reference to the whole number of members of the authority.

Majority

7. (1) Subject to the provisions of any enactment, all questions coming or arising before a local authority shall be decided by a majority of the members of the authority present and voting thereon at a meeting of the authority.

(2) Subject to those provisions, in the case of an equality of votes, the person presiding at the meeting shall have a second or casting vote.

Record of attendance

8. The names of the members present at a meeting of a local authority shall be recorded.

Minutes

9. (1) Minutes of the proceedings of a meeting of a local authority shall, subject to sub-paragraph (2), be drawn up and entered in a book kept for that purpose and shall be signed at the same or next following meeting of the authority by the person presiding thereat, and any minute purporting to be so signed shall be received in evidence without further proof.

(2) Notwithstanding anything in any enactment or rule or law to the contrary, the minutes of the proceedings of meetings of a local authority may be recorded on loose leaves consecutively numbered, the minutes of the proceedings of any meeting being signed, and each leaf comprising those minutes being initialled, at the same or next following meeting of the authority, by the person presiding thereat, and any minutes purporting to be so signed shall be received in evidence without further proof.

(3) Until the contrary is proved, a meeting of a local authority a minute of whose proceedings has been made and signed in accordance with this paragraph shall be deemed to have been duly convened and held, and all members present at the meeting shall be deemed to have been duly qualified.

Validity

10. The proceedings of a local authority shall not be invalidated by any vacancy among their number or by any defect in the election or qualifications of any member thereof.

Application to committees

11. (1) Paragraphs 7 to 10 (except paragraph 9(3)) shall apply in relation to a committee of a local authority (including a joint committee) or a sub-committee of any such committee as they apply in relation to a local authority.

(2) Until the contrary is proved, where a minute of any meeting of any such committee or sub-committee has been made and signed in accordance with paragraph 9 as applied by this paragraph, the committee or sub-committee shall be deemed to have been duly constituted and to have had power to deal with the matters referred to in the minute, the meeting shall be deemed to have been duly convened and held and the members present at the meeting shall be deemed to have been duly qualified.

SCHEDULE 2

ATTENDANCE AND TRAVELLING ALLOWANCES

Section 10(2) [1983/23/1-9]

1. [Repealed][130]

2. (1) Subject to the following provisions of this paragraph, a local authority shall pay to each member of the authority an attendance allowance of the prescribed amount for each session during which the member undertakes an approved duty.

(2) Not more than one attendance allowance shall be paid to any person in respect of any one session.

(3) The aggregate of the attendance allowances paid to any one person by any one local authority in a financial year shall not exceed the prescribed amount.

(4) A member of a local authority may, by notice in writing to the clerk of the authority, elect not to accept any attendance allowances in respect of a financial year.

(5) Allowances under this paragraph shall be treated as allowances in respect of expenses and disbursements in the performance of the recipient's duties.

3. (1) A local authority shall pay to each member of the authority who makes a claim in accordance with sub-paragraph (2) a travelling allowance at the prescribed rate for each approved duty which he undertakes.

(2) A member of a local authority who wishes to claim an allowance under this paragraph shall submit his claim in writing, in such form as may be approved by the Department, to the clerk of the authority.[131]

4. (1) The Department may by order prescribe —

(a) the amount of an attendance allowance payable under paragraph 2(1);

(b) the maximum allowances payable by virtue of paragraph 2(3); and

(c) the rate at which travelling allowances shall be payable under paragraph 3(1).[132]

(2) An order under sub-paragraph (1) shall not have effect unless it is approved by Tynwald, but may provide for its operation from such date (which may be before or after the making of the order) as may be specified therein.

5. Any sum payable under this Schedule shall be exempt from income tax and shall not be brought into account by the Assessor of Income Tax as part of the income of the recipient.

6. (1) Every local authority shall publish a report in respect of each financial year, which shall state —

(a) the number of meetings of the authority;

(b) the number of meetings of each committee or sub-committee of the authority;

(c) the number of attendances of each member of the authority at meetings of the authority and each committee and sub-committee of the authority; and

(d) the total sums paid to each member under this Schedule;

during the financial year in question.[133]

(2) The authority shall send a copy of the report published under sub-paragraph (1) to the Department, together with a certificate of the inspector appointed to inspect the accounts of the authority that the information contained in the report is correct.[134]

(3) In subparagraph (2) "inspect" has the meaning given in section 21 of the Audit Act 2006.[135]

7. In this Schedule —

"**approved duty**", in relation to a member of a local authority, means —

(a) attendance at a meeting of the authority, or of a committee or sub-committee of the authority;

(b) the doing of any other thing approved by the authority, or any thing of a class so approved, for the purpose of, or in connection with, the performance of function of the authority or of any committee or sub-committee of the authority; or

(c) the doing of any thing as a member of a designated body for the purpose of, or in connection with, the performance of any function of that body;

"**designated body**", in relation to a member of a local authority, means a body (other than a joint board) designated by order of the Department for the purposes of this Schedule, of which the member has been appointed a member by or on the nomination of the authority;[136]

"**prescribed**" means prescribed by order under paragraph 4;

"**session**" means a period of 4 hours in any day.

SCHEDULE 3[137]

APPLICATION OF THIS ACT TO JOINT BOARDS

Section 68

Provision applied	*Modification, etc.*
Part I	
Section 2.	
Section 3(2).	
Sections 4 and 5.	
Part III	
Section 10.	
Sections 11 to 15.	
Schedule 1.	Omit paragraphs 1(2) and 5(3)(a).
Schedule 2.	In paragraph 7, omit head (c) of the definition of "approved duty", and the definition of "designated body".
Part IV	
Sections 16 to 20.	
Section 21	In subsection (2), omit "of a town district or village district", and in subsection (3) omit "of a parish district".
Sections 22 and 23.	
Sections 25 to 27.	
Part V	
Sections 30 to 41.	
Part VI	
Sections 45 to 49.	
Sections 51 and 52.	
Part VII	
Section 53.	
Sections 55 to 63.	
Part VIII	
Section 65.	
Sections 68 to 70.	

SCHEDULE 4

TRANSITIONAL PROVISIONS

Section 74(1)

General

1. Where any provision of this Act deals with the same subject-matter as an enactment repealed by this Act, then, without prejudice to the generality of subsections (2) and (3) of section 16 of the *Interpretation Act 1976*, those subsections shall have effect with respect to such provision as if it were an enactment substituted for the repealed enactment by way of amendment, revision or consolidation within the meaning of those subsections.

Combined authorities

2. (1) Any combined authority constituted under any enactment by a public document made before the commencement of this Act shall be deemed to be a joint board established by virtue of an order under section 7, and any such public document may be amended or revoked accordingly.

(2) In this paragraph "combined authority" means a body corporate established under an enactment and consisting of members appointed by two or more local authorities, or by the Department and one or more local authorities.[138]

Byelaws

3. (1) Any byelaws made under a provision of the 1916 Act repealed by this Act, or under any enactment repealed by that Act, and not otherwise repealed, shall have effect as if they had been made under this Act, and may be amended or repealed accordingly.

(2) Any byelaws made before the date on which section 28 comes into operation, and having effect as if made under this Act by virtue of sub-paragraph (1), shall cease to have effect on the expiration of —

(a) 5 years after that date, in the case of byelaws made more than 5 years before that date, or

(b) 20 years after that date, in any other case.

(3) Notwithstanding the repeal by this Act of section 4 of the *Local Government Amendment Act 1934*, the provisions of that section shall apply to any byelaw made under paragraph (56), (57) or (58) of section 315 of the 1916 Act for the time being in force, as if such repeal had not taken effect.

Inspection of minutes

4. Section 34 does not apply to the minutes of a meeting (other than a meeting of the council) held before the date on which that section comes into operation.

Private improvement rates

5. Notwithstanding the repeal by this Act of sections 368 to 370 of the 1916 Act, any private improvement rate payable in respect of any premises immediately before such repeal takes effect shall be recoverable and redeemable as if such repeal had not taken effect.

Medical officers of health, etc.

6. (1) Any reference in any statutory provision to the Isle of Man Medical Officer of Health or to a medical officer of health of a local authority or of a district shall be construed as a reference to a person nominated as a director of public health or deputy director of public health under section 1(1).[139]

(2) Any reference in any enactment passed before 18th May 1976 to a sanitary officer or a sanitary inspector shall be construed as a reference to an environmental health officer.[140]

Attendance and travelling allowances

7. A resolution passed by a local authority under section 1(1) of the *Local Government (Payment of Members' Expenses) Act 1981* in respect of a financial year falling, or part of which falls, after the date on which Schedule 2 comes into operation shall be deemed to be a resolution passed under paragraph 1(2)(c) of that Schedule.

SCHEDULE 5

AMENDMENT OF ENACTMENTS

Section 74(2)

[Sch 5 amended by Nursing and Residential Homes Act 1988 Sch 3, by Food Act 1996 Sch 5 and by Sewerage Act 1999 Sch 5, and amends the following Acts —

Local Government Consolidation Act 1916 q.v.

Local Government Act 1963 q.v.

Isle of Man Loans Act 1974 q.v.]

SCHEDULE 6[141]

ENDNOTES

Table of Legislation History

Legislation	Year and No	Commencement

Table of Renumbered Provisions

Original	Current

Table of Endnote References

[1] Subs (1) amended by Health and Social Security Act 1986 Sch 2, by Public Health (Amendment) Act 2000 s 12, by SD155/10 Sch 4 and by SD2014/08.
[2] Subs (2) substituted by SD155/10 Sch 11.
[3] Subs (1) amended by GC192/86 and by SD155/10 Schs 3, 6 and 11.
[4] Subs (2) amended by GC192/86 and by SD155/10 Schs 3, 6 and 11.
[5] Subs (3) amended by GC192/86 and by SD155/10 Schs 3, 6 and 11.
[6] Para (a) amended by SD155/10 Schs 3, 6 and 11.
[7] Subs (4) added by Local Government Act 2006 s 1 and amended by SD155/10 Schs 3, 6 and 11.
[8] Subs (5) added by Local Government Act 2006 s 1 and amended by SD155/10 Schs 3, 6 and 11.
[9] S 3 repealed by Audit Act 2006 Sch 2.
[10] Subs (1) amended by GC192/86 and by SD155/10 Schs 3, 6 and 11.
[11] Subs (2) repealed by Local Government Act 2006 Sch 4.
[12] Subs (3) amended by GC192/86 and by SD155/10 Schs 3, 6 and 11.
[13] Subs (1) amended by SD155/10 Schs 3, 6 and 11.
[14] S 4A inserted by Local Government Act 2006 s 2. Subs (3) amended by SD155/10 Schs 3, 6 and 11.
[15] Para (a) amended by SD155/10 Schs 3, 6 and 11.
[16] Subs (2) amended by SD155/10 Schs 3, 6 and 11.
[17] Para (a) amended by SD155/10 Schs 3, 6 and 11.
[18] Para (b) amended by SD155/10 Schs 3, 6 and 11.
[19] Subs (4) amended by SD155/10 Schs 3, 6 and 11.

[20] Para (a) amended by SD155/10 Schs 3, 6 and 11.
[21] Para (b) amended by SD155/10 Schs 3, 6 and 11.
[22] Para (e) amended by SD155/10 Schs 3, 6 and 11.
[23] Para (fa) amended by SD155/10 Schs 3, 6 and 11.
[24] Para (h) amended by SD155/10 Schs 3, 6 and 11.
[25] S 5 substituted by Local Government Act 2006 s 2. Subs (6) amended by SD155/10 Schs 3, 6 and 11.
[26] Subs (1) amended by GC192/86 and by Local Government Act 2006 Sch 4.
[27] Subs (2) amended by GC192/86.
[28] Para (g) amended by GC192/86.
[29] Para (h) amended by GC192/86.
[30] Subs (3A) inserted by Local Government (Miscellaneous Provisions) Act 2001 s 1.
[31] Subs (5) amended by GC192/86.
[32] S 6A inserted by Local Government Act 2006 s 5.
[33] Para (b) amended by GC192/86.
[34] Subs (1) amended by GC192/86.
[35] Para (f) amended by GC192/86.
[36] Para (g) amended by GC192/86.
[37] Subs (5) amended by GC192/86.
[38] Subs (1) amended by GC192/86.
[39] Subs (3) added by GC190/86 and amended by GC192/86, by SD155/10 Sch 9 and by SD2014/06.
[40] Subs (2) amended by GC192/86.
[41] Subs (3) amended by GC 192/86.
[42] Subs (4) amended by GC192/86.
[43] Subs (5) amended by GC192/86.
[44] Subs (4) added by Civil Partnership Act 2011 Sch 14.
[45] Subs (1) amended by Civil Partnership Act 2011 Sch 14.
[46] Subs (1) amended by GC192/86.
[47] Subs (2) amended by GC192/86.
[48] Subs (3) amended by GC192/86.
[49] Subs (4) amended by GC192/86.
[50] Subs (4A) inserted by Local Government Act 2006 s 6.
[51] Subs (4B) inserted by Local Government Act 2006 s 6.
[52] Para (b) amended by GC192/86.
[53] S 19 amended by GC192/86.
[54] Subs (2) substituted by Local Government Act 2006 s 7.
[55] Subs (3) substituted by Local Government Act 2006 s 7.
[56] Subs (3A) inserted by Local Government Act 2006 s 7.
[57] Subs (1) substituted by Local Government Act 2006 s 7.
[58] Subs (2) substituted by Local Government Act 2006 s 7.
[59] S 24A inserted by Local Government Act 2006 s 6.

[60] Subs (2) substituted by Statute Law Revision Act 1989 Sch 1 and amended by SD359/11.
[61] Subs (2A) inserted by Local Government Act 2006 s 3 and amended by SD359/11.
[62] Subs (2B) inserted by Local Government Act 2006 s 3 and amended by SD359/11.
[63] Subs (3) substituted by Statute Law Revision Act 1989 Sch 1. Para (b) amended by SD359/11.
[64] Subs (4) substituted by Statute Law Revision Act 1989 Sch 1 and amended by SD359/11.
[65] Subs (5) substituted by Statute Law Revision Act 1989 Sch 1 and amended by SD359/11.
[66] Subs (6) substituted by Statute Law Revision Act 1989 Sch 1 and amended by SD359/11.
[67] Subs (7) substituted by Statute Law Revision Act 1989 Sch 1 and amended by SD359/11.
[68] Subs (8) repealed by Statute Law Revision Act 1989 Sch 1.
[69] Subs (1) substituted by Local Government Act 2006 s 8.
[70] Subs (2) substituted by Local Government Act 2006 s 8.
[71] Subs (7) added by Local Government Act 2006 s 8.
[72] Subs (8) added by Local Government Act 2006 s 8.
[73] Subs (9) added by Local Government Act 2006 s 8.
[74] Subs (10) added by Local Government Act 2006 s 8.
[75] S 27A inserted by Local Government Act 2006 s 9
[76] Subs (1) amended by GC192/86.
[77] Subs (2) amended by GC192/86.
[78] S 30A inserted by Local Government and Building Control (Amendment) Act 2016 s 8.
[79] S 31A inserted by Statute Law Revision Act 1989 Sch 1.
[80] Subs (1), previously s 34, renumbered by Local Government Act 2006 s 10.
[81] Subs (2) added by Local Government Act 2006 s 10.
[82] Para (b) amended by GC192/86 and by SD155/10 Schs 3, 6 and 11.
[83] Para (c) amended by GC192/86 and by SD155/10 Schs 3, 6 and 11.
[84] Para (d) amended by GC192/86 and by SD155/10 Schs 3, 6 and 11.
[85] Subs (2) amended by GC192/86, by Public Health (Amendment) Act 2000 s 12 and by SD155/10 Schs 3, 6 and 11.
[86] For para (f) see Public Health Act 1990 s 56 and Water Act 1991 s 37.
[87] Subs (4) amended by Statute Law Revision Act 1989 Sch 1, by GC192/86, by Public Health (Amendment) Act 2000 s 12 and by SD155/10 Schs 3, 6 and 11.
[88] Subs (5) amended by Statute Law Revision Act 1989 Sch 1, by Public Health (Amendment) Act 2000 s 12 and by SD155/10 Schs 3, 6 and 11.
[89] Subs (2) repealed by Audit Act 2006 Sch 2.
[90] Subs (5) amended by GC192/86.
[91] Subs (1) amended by GC192/86.

[92] Subs (2) amended by GC192/86 and by Local Government Act 2006 s 15.
[93] Subs (3A) inserted by Local Government Act 2006 s 15.
[94] Subs (3B) inserted by Local Government Act 2006 s 15.
[95] Subs (3) amended by GC192/86.
[96] S 45 amended by GC192/86.
[97] Subs (6) amended by Treasury Act 1985 Sch 2.
[98] Para (h) amended by GC192/86.
[99] Subs (1) amended by Treasury Act 1985 Sch 2, by GC192/86 and by SD359/11.
[100] Para (d) amended by GC192/86 and by SD359/11.
[101] Subs (2) substituted by Statute Law Revision Act 1989 Sch 1 and amended by Local Government Act 2006 s 13 and by SD359/11.
[102] Subs (2A) inserted by Local Government Act 2006 s 13 and amended by SD359/11.
[103] Subs (2B) inserted by Local Government Act 2006 s 13.
[104] Subs (2C) inserted by Local Government Act 2006 s 13 and amended by SD359/11.
[105] Para (b) amended by SD359/11.
[106] Subs (3) substituted by Statute Law Revision Act 1989 Sch 1.
[107] Subs (4) substituted by Statute Law Revision Act 1989 Sch 1 and amended by SD359/11.
[108] Subs (4A) inserted by Local Government Act 2006 s 13 and amended by SD359/11.
[109] Subss (5) to (8) inclusive repealed by Statute Law Revision Act 1989 Sch 1.
[110] Subs (4) amended by GC192/86 and by SD359/11.
[111] Para (a) amended (fine increased) by Public Health (Amendment) Act 2000 s 9 and by Local Government and Building Control (Amendment) Act 2016 s 9.
[112] Subs (1) amended by Summary Jurisdiction Act 1989 Sch 5.
[113] Subs (2) amended by Summary Jurisdiction Act 1989 Sch 5.
[114] Subs (4) amended by GC192/86.
[115] S 70 amended by SD155/10 Schs 3, 6 and 11.
[116] Subs (1) amended by SD155/10 Schs 3, 6 and 11.
[117] Subs (2) amended by SD155/10 Schs 3, 6 and 11.
[118] Definition of "the Board" repealed by GC192/86.
[119] Definition of "the Department" inserted by GG192/86 and amended by SD155/10 Sch 5.
[120] Definition of "director of public health" (previously "community physician") amended by Public Health (Amendment) Act 2000 s 12.
[121] Definition of "inspector of the Department" repealed by SD155/10 Schs 3, 6 and 11.
[122] Definition of "member" amended by Douglas Corporation Act 1988 Sch.
[123] Definition of "prescribed" amended by GC192/86.
[124] Para (a) amended by SD2014/08.
[125] Definition of "relevant Department" inserted by SD155/10 Sch 11 and amended by SD2014/08.
[126] Para (d) inserted by Flood Risk Management Act 2013 s 86.
[127] Subs (3) repealed by Statute Law Revision Act 1992 Sch 2.

[128] ADO (whole Act, but see GC89/86) 1/4/1986 (GC68/86).
[129] Subpara (2) substituted by Douglas Corporation Act 1988 Sch.
[130] Para 1 repealed by Local Government Act 2006 s 14 and Sch 4.
[131] Subpara (2) amended by GC192/86.
[132] Subpara (1) amended by GC192/86.
[133] Subpara (1) amended by Local Government Act 2006 s 14 and Sch 4.
[134] Subpara (2) amended by GC192/86 and by Audit (Amendment) Act 2015 Sch.
[135] Subpara (3) inserted by Audit (Amendment) Act 2015 Sch.
[136] Definition of "designated body" amended by GC192/86 and by Local Government Act 2006 s 14.
[137] Sch 3 amended by Local Government Act 2006 s 14.
[138] Subpara (2) amended by GC192/86.
[139] Subpara (1) amended by Public Health (Amendment) Act 2000 s 12.
[140] Subpara (2) amended by Public Health (Amendment) Act 2000 s 12.
[141] Sch 6 repealed by Statute Law Revision Act 1992 Sch 2.