



THE SCOTTISH OFFICE

Environment Department

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To the attached addressees

18 July 1995

Dear Sir/Madam

**SECTION 55 OF THE LOCAL GOVERNMENT ETC (SCOTLAND) ACT 1994**

1. You will wish to be aware that, following consideration of the comments received in response to the recent consultation exercise, Mr George Kynoch today made the Local Government (Relevant Date) (Scotland) Order 1995 which specifies **1 September 1995** as the relevant date for the purposes of section 55 of the Local Government etc (Scotland) Act 1994.

2. Accordingly, existing local authorities, joint boards and the Central Scotland Water Development Board will be required, from 1 September 1995, to gain the agreement of

- the relevant successor body where they intend to dispose of land or other property for a consideration exceeding £250,000;
- all of their successor bodies where they intend to:
  - enter into a capital contract where the consideration exceeds £2.5m; or
  - enter into any other contract with a consideration exceeding £250,000 where the period of the contract either extends beyond 31 March 1996 or is capable of being so extended.

3. The relevant successor body will be

- in relation to the disposal of land or other property, the new local authority within whose area the land will be situated;
- in relation to any other contracts, except those covered below, all new local authorities whose area will include the whole or any part of the area of the existing local authority;

- where the transaction relates to the functions which will be transferring to the new water and sewerage authorities, the relevant water authority;
- where the transaction relates to a road or proposed road which the Secretary of State has given notice will become a trunk road, the Secretary of State.

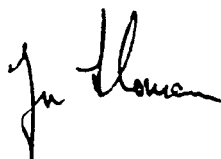
4. Where a transaction involves police or fire functions and a successor body is a police or fire joint board, the existing local authority or joint board will be required to gain its consent to the financial transactions set out in paragraph 2 above from **28 days** after the relevant police amalgamation or fire administration scheme comes into force.

5. Please note that section 55 does not apply to any disposal of land for which the consent of the Secretary of State is required under section 12(7) of the Housing (Scotland) Act 1987 or any contract entered into under powers available to local authorities under section 24 of the Local Government Act 1988.

6. A substantial number of those responding to the consultation exercise asked if individual Treasury management transactions will be covered by section 55. I can confirm that such transactions will require the consent of all successor councils where the consideration (ie the interest payable on the loan over its lifetime) exceeds £250,000. However, as with all transactions covered by section 55, it will be open to the new councils to provide their predecessors with a single blanket consent for Treasury management transactions, avoiding the need for existing councils to seek consent every time they wish to borrow money. Such blanket consents may be particularly apt in the case of Treasury management transactions which are likely to be concerned mainly with the replacement of maturing loans and the financing of capital projects which have either been commenced prior to 1 September 1995 or, where this is not the case, will be subject to the consent of the new councils in any case. Consents under section 55 can be unconditional or subject to restrictions. For example, it would be open to a new council to provide a blanket consent for Treasury management transactions, subject to the existing council periodically providing an indication of its intended borrowing profile. It should be borne in mind that councils should, in any case, have regard to the CIPFA Code of Practice in this area.

7. I enclose a copy of the Order and the Parliamentary Answer in which Mr Kynoch announced the Government's decision; further copies of the Order will be available from HMSO shortly. You will note from the Parliamentary Answer that in determining the date for section 55 the Government was anxious to offer a degree of protection for incoming councils whilst at the same time avoiding disruption to council services. I have been asked to emphasise the need for new councils to establish appropriate mechanisms for ensuring that requests for consent are dealt with expeditiously.

Yours faithfully



G M THOMSON

## SECTION 55 OF THE LOCAL GOVERNMENT ETC (SCOTLAND) ACT 1994

### Distribution List

The Chief Executives of Regional, Islands and District Councils  
Chief Executives of "Shadow" Local Authorities  
Royal Institution of Chartered Surveyors in Scotland  
CIPFA  
Commission for Local Authority Accounts in Scotland  
COSLA  
Central Scotland Water Development Board  
Scottish Local Government Information Unit  
Scottish Children's Reporter Administration  
Lothian and Borders Police Board  
Northern Joint Police Committee  
Highlands and Islands Fire Board  
Lothian and Borders Fire Board  
East of Scotland Water Authority  
West of Scotland Water Authority  
North of Scotland Water Authority  
Scottish Assessors' Association  
The Law Society of Scotland  
Other Government Departments (including Chief Valuers' Office)  
Association of Directors of Education in Scotland  
Lothian Regional Council, Social Work Department

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STATUTORY INSTRUMENTS

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1995 No. 1894(S.140)

LOCAL GOVERNMENT, SCOTLAND

The Local Government (Relevant Date)  
(Scotland) Order 1995

*Made*

18th July 1995

*Coming into force*

31st July 1995

The Secretary of State, in exercise of the powers conferred on him by section 55(3) of the Local Government etc. (Scotland) Act 1994(a) and of all other powers enabling him in that behalf, hereby makes the following Order:

**Citation, commencement and interpretation**

1.— (1) This Order may be cited as the Local Government (Relevant Date) (Scotland) Order 1995 and shall come into force on 31st July 1995.

(2) In this Order, “the 1994 Act” means the Local Government etc. (Scotland) Act 1994.

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(a)1994 c.39.

## Relevant Dates

2. Except as provided in article 3 below, the relevant date for the purposes of section 55 of the 1994 Act is hereby determined to be 1st September 1995.

3. The relevant date for the purposes of section 55 of the 1994 Act in respect of the consent required of the relevant successor authorities specified in section 55(7)(b) and (8)(b) of the 1994 Act is hereby determined to be the date 28 days after the constitution of the relevant successor authority.

GEORGE KYNOCH

Parliamentary Under Secretary of State,  
Scottish Office

St Andrew's House,  
Edinburgh  
18<sup>th</sup> July 1995

## EXPLANATORY NOTE

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

This Order determines 1st September 1995 as the date on and after which certain disposals of land and contracts specified in section 55 of the Local Government etc. (Scotland) Act 1994 cannot be made or entered into by an existing authority without the consent of the appropriate successor authority or, in certain cases, the Secretary of State. Where the successor is a new police or fire joint board however the relevant date is 28 days after the constitution of that joint board.

18 JULY 1995

WRITTEN

HOUSE OF COMMONS

**Phil Gallie (Ayr):** To ask the Secretary of State for Scotland, if he will indicate the date after which existing local authorities must have the agreement of their successors before entering into major financial transactions.

(36161)

**Mr George Kynoch:**

Following consultations with Scottish local authorities, I have today made the Local Government (Relevant Date) (Scotland) Order 1995 which requires existing local authorities, joint boards and the Central Scotland Water Development Board, from 1 September 1995, to have the agreement of the relevant successor bodies before disposing of land or entering into revenue or capital contracts above specified values. Where the successor body is a joint police or fire board, the date in question will be 28 days after the establishment of the relevant board.

In deciding on these dates, I have given careful consideration to the views of existing and new councils. There is clearly a need to avoid possible disruption to local government services whilst at the same time protecting the interests of incoming councils. I believe the date of 1 September provides new councils with the opportunity to set in place appropriate mechanisms for dealing expeditiously with requests for their consent.

THE SCOTTISH OFFICE

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