



# Local Governance (Scotland) Act 2004

## 2004 asp 9

### PART 1

#### LOCAL GOVERNMENT ELECTIONS

#### 1 Electoral wards

- (1) Each local government area shall be divided into electoral wards; and there shall be a separate election for each electoral ward.
- (2) The number of councillors to be returned in an electoral ward shall be either three or four, as determined by order made under section 17 (order giving effect to proposals made by Boundary Commission) of the Local Government (Scotland) Act 1973 (c. 65) (“the 1973 Act”).
- (3) Different numbers may be determined in relation to different electoral wards.

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#### Commencement Information

- II** S. 1 in force at 2.5.2007 by [S.S.I. 2007/25](#), [art. 2\(2\)](#)

#### 2 Single transferable vote

In each electoral ward in which there is a contested election, a poll shall be held at which each person entitled to vote as an elector may vote by marking on the ballot paper—

- (a) the voter’s first preference from among the candidates to be councillor, and
- (b) if there are three or more candidates and the voter wishes to express a further preference for one or more of those candidates, the voter’s second and, if the voter wishes, subsequent preferences from among those candidates.

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#### Commencement Information

- I2** S. 2 in force at 2.5.2007 by [S.S.I. 2007/25](#), [art. 2\(2\)](#)

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*Changes to legislation: There are currently no known outstanding effects for the Local Governance (Scotland) Act 2004, Part 1. (See end of Document for details)*

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### 3 Power to make further provision about local government elections

- (1) The Scottish Ministers must by order make provision as to—
- (a) the conduct of elections of councillors,
  - (b) the questioning of such an election and the consequences of irregularities.
- (2) Such an order must, in particular—
- (a) specify the manner in which the number of votes which will secure the return of a candidate as a councillor is to be calculated,
  - (b) provide for any candidate with a number of votes which equals or exceeds the number so calculated to be deemed to be elected as a councillor,
  - (c) make provision as to circumstances in which one or more of the candidates is to be excluded from the election on the basis of the number of votes then credited to those candidates,
  - (d) make provision as to the transfer of ballot papers from candidates deemed to be elected as councillors or excluded from the election,
  - (e) specify the value, or the method for calculating the value, to be given to a vote on a transferred ballot paper.

[<sup>F1</sup>(2A) For the avoidance of doubt, not every order made under subsection (1) need include provision of the type mentioned in subsection (2).]

- (3) Such an order may, in particular—
- (a) make provision about the limitation of the election expenses of candidates,
  - (b) apply, with or without modifications or exceptions, any provision made by or under any enactment.
- (4) Provision made by such an order by virtue of subsection (1)(b) must include provision applying Part III of the Representation of the People Act 1983 (c. 2) (“the 1983 Act”) (with such modifications or exceptions as the order may specify).
- (5) The return of a councillor may be questioned only under Part III of the 1983 Act as applied by an order under subsection (1).

#### Textual Amendments

**F1** S. 3(2A) inserted (29.1.2007) by [Local Electoral Administration and Registration Services \(Scotland\) Act 2006 \(asp 14\)](#), [ss. 34\(6\)](#), [63\(2\)](#); [S.S.I. 2007/26](#), [art. 2\(1\)\(m\)](#)

#### Commencement Information

**I3** S. 3 in force at 14.9.2006 by [S.S.I. 2006/470](#), [art. 2](#)

### [<sup>F2</sup>3A Voting information from local government elections

- (1) The Scottish Ministers may by order make provision as to the publication of information about votes cast at elections of councillors.
- (2) Such an order may, in particular—
- (a) specify information to which the provisions shall apply,
  - (b) make provision about access to information to facilitate publication,
  - (c) specify limitations on the publication of information,
  - (d) make provision relating to votes cast in part of an electoral ward.

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- (3) Nothing may be done by virtue of an order under this section which would make it possible to ascertain whether or not a particular elector voted.
- (4) An order under this section may make provision which applies to any voting information held by virtue of this Act in relation to the local government elections held in 2007.]

#### Textual Amendments

- F2** S. 3A inserted (30.4.2010) by [Scottish Local Government \(Elections\) Act 2009 \(asp 10\)](#), ss. **2(1)**, 3(3); S.S.I. 2010/132, art. 2

## 4 Reviews of electoral arrangements

- (1) As soon as practicable after the commencement of this section the Boundary Commission shall—
  - (a) review the electoral arrangements for all local government areas for the purpose of considering future electoral arrangements for those areas, and
  - (b) formulate proposals for those arrangements.
- (2) Part II of the 1973 Act applies to a review under subsection (1) as it applies to a review under section 16 of that Act except that section 17 of that Act has effect as if it required—
  - (a) the Boundary Commission to submit a report on any review before such date as the Scottish Ministers may direct, and
  - (b) the Scottish Ministers to make an order under section 17 giving effect to the proposals of the Commission under subsection (1) (whether as submitted to them or with modifications).
- (3) The Boundary Commission shall, when complying with section 18(2)(aa) of the 1973 Act on a review under subsection (1), also inform the council of the reasons for any differences between—
  - (a) their draft proposals, and
  - (b) the draft proposals which would have been made had they been formulated on the basis that each electoral ward of a local government area is to consist of a combination of existing electoral wards (the rules set out in Schedule 6 to that Act having been disregarded in so far as those rules conflicted with that basis).
- (4) The Boundary Commission shall disregard subsection (3) when formulating proposals for future electoral arrangements under subsection (1).
- (5) The 1973 Act is amended as follows—
  - (a) in section 16(2) (duty of Boundary Commission to carry out periodic reviews of electoral arrangements), for “Schedule 5 to this Act” substitute “section 4(1) of the Local Governance (Scotland) Act 2004 (asp 9)”,
  - (b) in section 18 (procedure for reviews)—
    - (i) in subsection (2), after paragraph (a) insert—
      - “(aa) at least two months before taking any steps under paragraph (b) below to inform other persons of any draft proposals or any interim decision not to make proposals, inform the council of any local

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- government area affected by the review of those proposals or that decision;
- (ab) before taking any such steps, take into consideration any representation made to them by such a council during the period of two months beginning on the day on which the council is informed under paragraph (aa);”
- (ii) after subsection (2) insert—
- “(2A) The Scottish Ministers may give directions to—
- (a) the Boundary Commission,
- (b) the council of any local government area affected by a review,
- in relation to consultation under subsection (2)(a) above.
- (2B) Such directions may be given generally or in relation to particular reviews or particular aspects of reviews.”
- (c) section 20 is repealed,
- (d) in subsection (1) (interpretation) of section 28, in the definition of “electoral arrangements”, after “councillors”, where second occurring, insert “ , the number of councillors for each electoral ward ”,
- (e) in subsection (2) (review of electoral arrangements to be carried out in compliance with certain enactments) of that section—
- (i) after “Act”, where first occurring, insert “or section 4(1) of the Local Governance (Scotland) Act 2004 (asp 9)”, and
- (ii) for “section 5 of the Local Government etc. (Scotland) Act 1994” substitute “ section 1 of the Local Governance (Scotland) Act 2004 (asp 9) ”,
- (f) Schedule 5 is repealed,
- (g) in sub-paragraph (2) of paragraph 1 of Schedule 6, for the words from “of”, where fourth occurring, to the end of that sub-paragraph substitute “ calculated by dividing the number of local government electors in each electoral ward of that local government area by the number of councillors to be returned in that ward shall be, as nearly as may be, the same. ”, and
- (h) at the end of sub-paragraph (3) of that paragraph insert— “ but if, in any case, there is a conflict between those criteria, greater weight shall be given to the latter. ”

#### Commencement Information

- I4** S. 4(1)-(4)(5)(a)-(c)(f) in force at 20.8.2004 by [S.S.I. 2004/351](#), [art. 2](#) (with [art. 3](#))
- I5** S. 4(5)(d)(e)(g)(h) in force at 2.5.2007 by [S.S.I. 2007/25](#), [art. 2\(2\)](#)

## 5 Consequential amendments and repeals

- (1) The 1983 Act is amended as follows—
- (a) in section 42 (conduct of local elections), subsections (1) to (4) and (7) are repealed,
- (b) in section 166(3) (vote to be void if voter is subject to incapacity to vote by reason of corrupt or illegal practices), for “or an election to any elective office

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- or” substitute “ , local government election or an election under the Local Government (Scotland) etc. Act 1994 (c. 39) ”,
- (c) in section 187(2)(application of certain provisions to elections other than elections of councillors)—
    - (i) the word “other” is repealed, and
    - (ii) for “local government Act” substitute “ Local Government etc. (Scotland) Act 1994 (c. 39) ”,
  - (d) section 188 is repealed, and
  - (e) in section 204 (general application to Scotland), in the definition of “local government Act”, for “Local Government etc. (Scotland) Act 1994” substitute “ Local Governance (Scotland) Act 2004 (asp 9) ”.
- (2) In section 5 (elections and term of office of councillors) of the Local Government etc. (Scotland) Act 1994 (c. 39), subsections (1),(5) and (6) are repealed.

#### Commencement Information

**I6** S. 5 in force at 2.5.2007 by [S.S.I. 2007/25](#), [art. 2\(2\)](#)

## 6 Interpretation of Part 1

In this Part—

“Boundary Commission” means the Local Government Boundary Commission for Scotland,

“electoral arrangements” has the same meaning as in Part II of the 1973 Act,

“local government area” is to be construed in accordance with section 1 (local government areas) of the Local Government etc. (Scotland) Act 1994 (c. 39).

#### Commencement Information

**I7** S. 6 in force at 20.8.2004 by [S.S.I. 2004/351](#), [art. 2](#) (with [art. 3](#))

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