



Local Electoral Administration and Registration Services (Scotland) Act 2006

2006 asp 14

PART 1

LOCAL GOVERNMENT ELECTIONS

Election expenses

16 Prohibition of expenses not authorised by election agent

- (1) In section 75 of the 1983 Act (prohibition of expenses not authorised by election agent), at the end insert—

“(11) This section does not apply in relation to a local government election in Scotland.”.

- (2) After that section insert—

“75A Scottish local government elections: prohibition of expenses not authorised by election agent

- (1) This section applies in relation to a local government election in Scotland.
- (2) No person other than a candidate at the election, his election agent or a person authorised in writing by the election agent shall, with a view to promoting or procuring the election of the candidate, incur any expenses on account of—
- (a) holding public meetings or organising any public display;
 - (b) issuing advertisements, circulars or publications; or
 - (c) otherwise presenting to the electors the candidate or his views or the extent or nature of his backing or disparaging another candidate.
- (3) Subsection (2)(c) above does not restrict the publication of any matter relating to the election in—
- (a) a newspaper or other periodical;
 - (b) a broadcast made by the British Broadcasting Corporation; or

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- (c) a programme included in any service licensed under Part 1 or 3 of the Broadcasting Act 1990 (c. 42) or Part 1 or 2 of the Broadcasting Act 1996 (c. 55).
- (4) Subsection (2) does not apply to expenses incurred by any person—
- (a) which do not exceed in the aggregate the permitted sum (and are not incurred by that person as part of a concerted plan of action); or
 - (b) in travelling or in living away from home or similar personal expenses.
- (5) For the purposes of subsection (4)(a) above—
- (a) “the permitted sum” means, in respect of each candidate, £50 together with an additional 0.5p for every entry in the register of local government electors for the electoral area in question as it has effect on the last day for publication of notice of the election; and
 - (b) expenses are to be regarded as incurred by a person “as part of a concerted plan of action” if they are incurred by that person in pursuance of any plan or other arrangement whereby that person and one or more other persons are to incur, with a view to promoting or procuring the election of the same candidate, expenses which (disregarding subsection (4)(a)) fall within subsection (2) above.
- (6) Where a person incurs any expenses required by subsection (2) above to be authorised by the election agent, that person shall, within 21 days after the day on which the result of the election is declared, deliver to the appropriate officer—
- (a) a return of the amount of the expenses, stating the election at which, and the candidate in whose support they were incurred;
 - (b) a declaration by that person (or in the case of an association or body of persons, by a director, general manager, secretary or other similar officer of the association or body) verifying the return and giving particulars of the matters for which the expenses were incurred; and
 - (c) the authority received from the election agent (which, for the purposes of this section, is to be treated as forming part of the return).
- (7) A person is guilty of a corrupt practice if he—
- (a) incurs, or aids, abets, counsels or procures any other persons to incur, any expenses in contravention of subsection (2) above; or
 - (b) makes a declaration required by subsection (6)(b) above which he knows to be false.
- (8) A person is guilty of an illegal practice if he fails to deliver any return or declaration as required by subsection (6) above.
- (9) The court by or before which a person is convicted of a corrupt or illegal practice under subsection (7) or (8) above may, if the court thinks it just in the special circumstances of the case, mitigate or entirely remit any incapacity incurred under section 173 or 173A of this Act by virtue of the conviction.
- (10) A candidate is not liable for, and his election is not void by reason of, a corrupt or illegal practice under subsection (7) or (8) above committed by an agent without his consent or connivance.

- (11) Where any act or omission of an association or body of persons (whether corporate or unincorporate) is a corrupt or illegal practice under this section, any person who at the time of the act or omission was a director, general manager, secretary or other similar officer of the association or body, or was purporting to act in any such capacity, is also guilty of the corrupt or illegal practice, unless the person proves—
- (a) that the act or omission took place without his consent or connivance; and
 - (b) that he exercised all such diligence to prevent the commission of the offence as he ought to have exercised having regard to the nature of his functions in that capacity and to all the circumstances.”.
- (3) The amendments made by this section are to be taken to have had effect from 16th February 2001.

17 Meaning of election expenses for the purposes of the 1983 Act

- (1) The 1983 Act is amended as follows.
- (2) Sections 90A (meaning of election expenses) and 90B (incurring of election expenses for purposes of section 90A), so far as applying in relation to a local government election in Scotland, are repealed.
- (3) Before section 90C insert—

“90ZB Scottish local government elections: meaning of “election expenses”

- (1) This section applies in relation to a local government election in Scotland.
- (2) In this Part of this Act, “election expenses”, in relation to a candidate at such an election, means any expenses incurred at any time in respect of any matter specified in Part 1 of Schedule 4B which is used for the purposes of the candidate’s election.
- (3) For the purposes of subsection (2) above, it is immaterial whether any such matter is so used before or after the date when the candidate becomes a candidate at the election.
- (4) No election expenses are to be regarded as incurred by virtue of subsection (2) above or section 90C below in respect of any matter specified in Part 2 of Schedule 4B.
- (5) In this section and in section 90C below, “for the purposes of the candidate’s election” means with a view to, or otherwise in connection with, promoting or procuring the candidate’s election at the election.
- (6) For the purposes of this Part of this Act so far as applying to a local government election in Scotland, election expenses are incurred by or on behalf of a candidate at the election if they are incurred—
- (a) by the candidate or his election agent; or
 - (b) by any person authorised by the candidate or his election agent to incur expenses.

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(7) In this Part of this Act so far as applying to a local government election in Scotland, any reference to election expenses incurred by or on behalf of a candidate at the election includes expenses—

- (a) which are incurred as mentioned in subsection (2) above before the date when he becomes a candidate at the election; but
- (b) which by virtue of that subsection and subsection (3) above fall to be regarded as election expenses.

(8) In this Part and in Part 3 of this Act so far as applying to a local government election in Scotland, any reference (in whatever terms) to promoting or procuring a candidate's election at an election includes doing so by prejudicing the electoral prospects of another candidate at the election.”.

(4) Before Schedule 5 insert the Schedule set out in schedule 1 to this Act.

18 Financial limits applying to candidates' election expenses

In section 132 of the Political Parties, Elections and Referendums Act 2000 (c. 41), subsection (6) (which restricts, in relation to local government elections in Scotland, modifications made by that section to section 76 of the 1983 Act relating to limitation of election expenses) is repealed.

19 Return as to election expenses

(1) In section 81 of the 1983 Act (returns as to election expenses), subsection (3), so far as applying in relation to a local government election, is repealed.

(2) Before subsection (5) of that section, insert—

“(4A) In relation to a local government election in Scotland, the return shall also contain as respects that candidate—

- (a) a statement relating to such expenses as the Scottish Ministers may by regulations prescribe, being expenses (other than election expenses) in connection with which provision is made by this Part;
- (b) a statement relating to such claims as the Scottish Ministers may so prescribe, being claims (whether paid, unpaid or disputed) in connection with election expenses or expenses prescribed under paragraph (a);
- (c) a statement relating to such other matters as the Scottish Ministers may so prescribe.

(4B) No regulations shall be made by the Scottish Ministers under subsection (4A) above unless a draft of the instrument containing the regulations has been laid before and approved by a resolution of the Scottish Parliament.”.