



# Representation of the People Act 1983

## 1983 CHAPTER 2

### PART III

#### LEGAL PROCEEDINGS

##### Modifications etc. (not altering text)

- C1** Pt. 3 applied (with modifications) (E.W.) by [S.I. 1987/1](#), [rules 2, 6](#) and [S.I. 1986/2215](#), [rules 2, 9](#) (which S.I. was revoked (2.1.2007) by [S.I. 2006/3305](#), [rule 1\(4\)](#), [Sch. 1](#))  
Pt. 3 applied (17.2.1994) by [S.I. 1994/342](#), [regs. 1\(2\)\(3\), 2\(2\), 11\(2\)](#)  
Pt. 3 extended (28.4.1999) by [S.I. 1999/1214](#) reg. 5(3) (which S.I. was revoked (23.3.2004) by [S.I. 2004/293](#), [reg. 126](#))  
Pt. 3 extended (9.4.2001) by [S.I. 2001/1184](#) reg. 7(2)  
Pt. 3 extended (E.W.) (1.2.2002) by [The Local Authorities \(Mayoral Elections\) \(England and Wales\) Regulations 2002](#) ([S.I. 2002/185](#)), [reg. 6](#)
- C2** Pt. 3: power to apply conferred (S.) (14.9.2006) by [Local Governance \(Scotland\) Act 2004](#) (asp 9), [ss. 3\(4\), 17\(2\)](#); [S.S.I. 2006/470](#), [art. 2](#)
- C3** Pt. 3 modified (E.W.) (2.1.2007 for certain purposes) by [The Local Elections \(Parishes and Communities\) \(England and Wales\) Rules 2006](#) ([S.I. 2006/3305](#)), [rule 1\(2\)\(3\)](#), [6](#)
- C4** Pt. 3 applied in part (with modifications) (S.) (17.2.2007 except for specified purposes) by [The Scottish Local Government Elections Order 2007](#) ([S.S.I. 2007/42](#)), [art. 4](#)
- C5** Pt. 3 (ss. 120-186) applied (S.) (12.10.2009) by [The Health Board Elections \(Scotland\) Regulations 2009](#) ([S.S.I. 2009/352](#)), [reg. 6](#)

#### *Questioning of a parliamentary election*

##### **120 Method of questioning parliamentary election.**

- (1) No parliamentary election and no return to Parliament shall be questioned except by a petition complaining of an undue election or undue return (“a parliamentary election petition”) presented in accordance with this Part of this Act.

*Status: Point in time view as at 03/04/2006.*

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- (2) A petition complaining of no return shall be deemed to be a parliamentary election petition and the High Court—
- (a) may make such order on the petition as they think expedient for compelling a return to be made; or
  - (b) may allow the petition to be heard by an election court as provided with respect to ordinary election petitions.

**Modifications etc. (not altering text)**

- C6** S. 120 applied (E.W.S.) by S.I. 1986/2209, regs. 2, 3, 5(1)(6)-(8), **Sch. 1 Pt. I**  
S. 120 applied (N.I.) by S.I. 1986/2250, regs. 2, 3, 5, **Sch. 1 Pt. I**
- C7** S. 120 applied (with modifications) (N.I.) (4.5.1996) by S.I. 1996/1220, art. 3(1)(5)-(8), **Sch. 1**  
S. 120 applied (with modifications) (11.3.1999) by S.I. 1999/787, art. 85(1)-(3), **Sch. 6 Pts. I, II** (which S.I. was revoked (21.11.2002 except for specified purposes) by S.I. 2002/2779, **arts. 1, 2** (which S.I. was revoked (15.3.2007) by S.I. 2007/937, **art. 2(a)**))  
S. 120 applied (with modifications) (21.11.2002 except for specified purposes) by **The Scottish Parliament (Elections etc.) Order 2002** (S.I. 2002/2779), **arts. 1, 81, Sch. 6 Pts. I, II** (which S.I. was revoked (15.3.2007) by S.I. 2007/937, **art. 2(a)**)  
S. 120 applied (with modifications) (15.3.2007 except for specified purposes) by **The Scottish Parliament (Elections etc.) Order 2007** (S.I. 2007/937), **arts. 1, 83, Sch. 6 Pts. I, II**
- C8** S. 120 applied (with modifications) (1.8.2001) by S.I. 2001/2599, art. 3, **Sch. 1** (as substituted (10.2.2009) by S.I. 2009/256, **arts. 1(2), 3, Sch. 1**)

**121 Presentation and service of parliamentary election petition.**

- (1) A Parliamentary election petition may be presented by one or more of the following persons—
- (a) a person who voted as an elector at the election or who had a right so to vote; or
  - (b) a person claiming to have had a right to be elected or returned at the election ;  
or
  - (c) a person alleging himself to have been a candidate at the election.
- (2) The member whose election or return is complained of is hereinafter referred to as the respondent, but if the petition complains of the conduct of a returning officer, the returning officer shall for the purposes of this Part of this Act be deemed to be a respondent.
- (3) The petition shall be in the prescribed form, state the prescribed matters and be signed by the petitioner, or all the petitioners if more than one, and shall be presented to the High Court, or to the Court of Session, or to the High Court of Northern Ireland, depending on whether the constituency to which it relates is in England and Wales, or Scotland or Northern Ireland.
- (4) The petition shall be presented by delivering it to the prescribed officer or otherwise dealing with it in the prescribed manner; and the prescribed officer shall send a copy of it to the returning officer of the constituency to which the petition relates, who shall forthwith publish it in that constituency.
- (5) The petition shall be served [<sup>F1</sup>in such] manner as may be prescribed.

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### Textual Amendments

- F1** Words in s. 121(5) substituted (16.2.2001) by 2000 c. 41, s. 138(1)(2), **Sch. 18 para. 19(3)**, (with s. 156(6)); S.I. 2001/222, art. 2, **Sch. 1 Pt. I** (with Sch. 1 Pt. II)

### Modifications etc. (not altering text)

- C9** S. 121 applied (E.W.S.) by S.I. 1986/2209, regs. 2, 3, 5(1)(6)-(8), **Sch. 1 Pt. I**  
S. 121 applied (N.I.) by S.I. 1986/2250, regs. 2, 3, 5, **Sch. 1 Pt. I**
- C10** S. 121 applied (with modifications) (N.I.) (4.5.1996) by S.I. 1996/1220, art. 3(1)(5)-(8), **Sch. 1**  
S. 121 applied (with modifications) (11.3.1999) by S.I. 1999/787, art. 85(1)-(3), Sch. 6 Pts. I, II (which S.I. was revoked (21.11.2002 except for specified purposes) by S.I. 2002/2779, arts. 1, 2 (which S.I. was revoked (15.3.2007) by S.I. 2007/937, art. 2(a)))  
S. 121 applied (with modifications) (1.8.2001) by S.I. 2001/2599, art. 3(1), **Sch. 1**  
S. 121 applied (with modifications) (21.11.2002 except for specified purposes) by The Scottish Parliament (Elections etc.) Order 2002 (S.I. 2002/2779), arts. 1, 81, **Sch. 6 Pts. I, II** (which S.I. was revoked (15.3.2007) by S.I. 2007/937, art. 2(a))  
S. 121 applied (with modifications) (15.3.2007 except for specified purposes) by The Scottish Parliament (Elections etc.) Order 2007 (S.I. 2007/937), arts. 1, 83, **Sch. 6 Pts. I, II**

## 122 Time for presentation or amendment of parliamentary election petition.

- (1) Subject to the provisions of this section, a parliamentary election petition shall be presented within 21 days after the return has been made to the Clerk of the Crown, or to the Clerk of the Crown for Northern Ireland, as the case may be, of the member to whose election the petition relates.
- (2) If the petition questions the election or return upon an allegation of corrupt practices and specifically alleges a payment of money or other reward to have been made by the member or on his account or with his privity since the time of that return in pursuance or in furtherance of the alleged corrupt practice, it may be presented within 28 days after the date of the payment.
- (3) A petition questioning the election or return upon an allegation of an illegal practice may, so far as respects that illegal practice, be presented—
  - (a) within 21 days after the day specified in subsection (4) below; or
  - (b) if specifically alleging a payment of money or some other act to have been made or done since the day so specified by the member to whose election the petition relates or an agent of his, or with the privity of that member or his election agent, in pursuance or in furtherance of the alleged illegal practice, within 28 days after the date of the payment or other act.
- (4) The day referred to in subsection (3) above is the tenth day after the end of the time allowed for [F<sup>2</sup>delivering] to the returning officer returns as to election expenses at the election or, if later—
  - (a) that on which the returning officer receives the return and declarations as to election expenses by that member and his election agent; or
  - (b) where the return and declarations are received on different days, the last of those days; or
  - (c) where there is an authorised excuse for failing to make the return and declarations, the date of the allowance of the excuse, or if there was a failure as regards two or more of them, and the excuse was allowed at different times, the date of the allowance of the last excuse.

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- (5) An election petition presented within the time limited by subsection (1) or subsection (2) above may, for the purpose of questioning the election or return upon an allegation of an illegal practice, be amended with the leave of the High Court within the time within which a petition questioning the election upon the allegation of that illegal practice could be presented under subsection (3).
- (6) Subsections (3), (4) and (5) above apply—
- (a) notwithstanding that the act constituting the alleged illegal practice amounted to a corrupt practice; and
  - (b) to a corrupt practice under section 75 above, as if it were an illegal practice.
- (7) For the purposes of this section, an allegation that an election is avoided under section 164 below shall be deemed to be an allegation of corrupt practices, notwithstanding that the offences alleged are or include offences other than corrupt practices.

<sup>F3</sup>(8) .....

#### Textual Amendments

- F2** Word substituted by [Representation of the People Act 1985 \(c. 50, SIF 42\)](#), s. 24, [Sch. 4 para. 44](#)
- F3** [S. 122\(8\)](#) repealed (16.2.2001) by [2000 c. 41](#), ss. 138(1)(2), 158(2)(3), [Sch. 18 para. 18\(1\)\(e\)](#), [Sch. 22](#) (with ss. 156(6), 158(3)); [S.I. 2001/222](#), art. 2, [Sch. 1 Pt. 1](#), Annex (with [Sch. 1 Pt. II](#))

#### Modifications etc. (not altering text)

- C11** [S. 122](#) applied (with modifications) (E.W.S.) by [S.I. 1986/2209](#), regs. 2, 3, 5(1)(6)-(8), [Sch. 1 Pt. I](#)
- [S. 122](#) applied (with modifications) (N.I.) by [S.I. 1986/2250](#), regs. 2, 3, 5, [Sch. 1 Pt. I](#)
- [S. 122](#) applied (with modifications) (N.I.) (4.5.1996) by [S.I. 1996/1220](#), art. 3(1)(5)-(8), [Sch. 1](#)
- [S. 122](#) applied (with modifications) (11.3.1999) by [S.I. 1999/787](#), art. 85(1)-(3), [Sch. 6 Pts. I, II](#) (which [S.I.](#) was revoked (21.11.2002 except for specified purposes) by [S.I. 2002/2779](#), [arts. 1, 2](#) (which [S.I.](#) was revoked (15.3.2007) by [S.I. 2007/937](#), [art. 2\(a\)](#)))
- [S. 122](#) applied (with modifications) (21.11.2002 except for specified purposes) by [The Scottish Parliament \(Elections etc.\) Order 2002 \(S.I. 2002/2779\)](#), [arts. 1, 81](#), [Sch. 6 Pts. I, II](#) (which [S.I.](#) was revoked (15.3.2007) by [S.I. 2007/937](#), [art. 2\(a\)](#))
- [S. 122](#) applied (with modifications) (15.3.2007 except for specified purposes) by [The Scottish Parliament \(Elections etc.\) Order 2007 \(S.I. 2007/937\)](#), [arts. 1, 83](#), [Sch. 6 Pts. I, II](#)
- C12** [S. 122](#) applied (with modifications) (1.8.2001) by [S.I. 2001/2599](#), art. 3, [Sch. 1](#) (as substituted (10.2.2009) by [S.I. 2009/256](#), [arts. 1\(2\), 3](#), [Sch. 1](#))

## 123 Constitution of election court and place of trial.

- (1) A parliamentary election petition shall be tried by—
- (a) two judges on the rota for the trial of parliamentary election petitions, and the judges for the time being on that rota shall, unless they otherwise agree, try the election petitions standing for trial according to their seniority,
  - (b) in Northern Ireland, the two judges of the High Court or the Court of Appeal for the time being selected under section 108 of the Judicature (Northern Ireland) Act 1978,

and the judges presiding at the trial of a parliamentary election petition are hereinafter referred to as the election court.

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- (2) The election court has, subject to the provisions of this Act, the same powers, jurisdiction and authority as a judge of the High Court (or, in Scotland, a judge of the Court of Session presiding at the trial of a civil cause without a jury) and shall be a court of record.
- (3) The place of trial shall be within the constituency for which the election was held, but—
  - (a) the High Court may, on being satisfied that special circumstances exist rendering it desirable that the petition should be tried elsewhere, appoint some other convenient place for the trial; and
  - (b) if that constituency is wholly or partly in Greater London, the petition may be heard at such place within Greater London as the High Court may appoint.
- (4) The election court may adjourn the trial from one place to another within the constituency.

**Modifications etc. (not altering text)**

- C13** S. 123 applied (E.W.S.) by S.I. 1986/2209, regs. 2, 3, 5(1)(6)-(8), **Sch. 1 Pt. I**  
S. 123 applied (N.I.) by S.I. 1986/2250, regs. 2, 3, 5, **Sch. 1 Pt. I**
- C14** S. 123 applied (with modifications) (N.I.) (4.5.1996) by S.I. 1996/1220, art. 3(1)(5)-(8), **Sch. 1**  
S. 123 applied (with modifications) (11.3.1999) by S.I. 1999/787, art. 85(1)-(3), **Sch. 6 Pts. I, II** (which S.I. was revoked (21.11.2002 except for specified purposes) by S.I. 2002/2779, **arts. 1, 2** (which S.I. was revoked (15.3.2007) by S.I. 2007/937, **art. 2(a)**))  
S. 123 applied (with modifications) (21.11.2002 except for specified purposes) by [The Scottish Parliament \(Elections etc.\) Order 2002 \(S.I. 2002/2779\)](#), arts. 1, 81, **Sch. 6 Pts. I, II** (which S.I. was revoked (15.3.2007) by S.I. 2007/937, **art. 2(a)**)  
S. 123 applied (with modifications) (15.3.2007 except for specified purposes) by [The Scottish Parliament \(Elections etc.\) Order 2007 \(S.I. 2007/937\)](#), arts. 1, 83, **Sch. 6 Pts. I, II**
- C15** S. 123 applied (with modifications) (1.8.2001) by S.I. 2001/2599, art. 3, **Sch. 1** (as substituted (10.2.2009) by S.I. 2009/256, arts. 1(2), 3, **Sch. 1**)

**124 Judges' expenses and reception: England and Wales and Northern Ireland.**

In relation to the trial of a parliamentary election petition—

- (a) in England and Wales and Northern Ireland, the travelling and other expenses of the judges and all expenses properly incurred in <sup>F4</sup> . . . providing them with necessary accommodation and with a proper court shall be defrayed by the Treasury out of moneys provided by Parliament;
- <sup>F5</sup>(b) . . . . .

**Textual Amendments**

- F4** Words repealed by [Representation of the People Act 1985 \(c. 50, SIF 42\)](#), ss. 24, 28, **Sch. 4 para. 45, Sch. 5**
- F5** S. 124(b) repealed by [Representation of the People Act 1985 \(c. 50, SIF 42\)](#), ss. 24, 28, **Sch. 4 para. 45, Sch. 5**

**Modifications etc. (not altering text)**

- C16** S. 124 applied (N.I.) by S.I. 1986/2250, regs. 2, 3, 5, **Sch. 1 Pt. I**
- C17** S. 124 applied (E.W.S.) by S.I. 1986/2209, regs. 2, 3, 5(1)(6)-(8), **Sch. 1 Pt. I**

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- C18** S. 124 applied (with modifications) (N.I.) (4.5.1996) by S.I. 1996/1220, art. 3(1)(5)-(8), **Sch. 1**  
S. 124 applied (with modifications) (1.8.2001) by S.I. 2001/2599, art. 3, **Sch. 1** (as substituted  
(10.2.2009) by S.I. 2009/256, arts. 1(2), 3, **Sch. 1**)

## 125 Judges' expenses and reception: Scotland.

In relation to the trial of a parliamentary election petition in Scotland—

- <sup>F6</sup>(a) . . . . .
- (b) the travelling and other expenses of the judges, and of the officer or officers in attendance on them, and all expenses properly incurred in providing the judges with a proper court shall be defrayed by the Treasury out of moneys provided by Parliament

### Textual Amendments

- F6** S. 125(a) repealed by Representation of the People Act 1985 (c. 50, SIF 42), ss. 24, 28, **Sch. 4 para. 46, Sch. 5**

### Modifications etc. (not altering text)

- C19** S. 125 applied (E.W.S.) by S.I. 1986/2209, regs. 2, 3, 5(1)(6)-(8), **Sch. 1 Pt. I**
- C20** S. 125 applied (with modifications) (11.3.1999) by S.I. 1999/787, art. 85(1)-(3), **Sch. 6 Pts. I, II** (which S.I. was revoked (21.11.2002 except for specified purposes) by S.I. 2002/2779, **arts. 1, 2** (which S.I. was revoked (15.3.2007) by S.I. 2007/937, **art. 2(a)**))  
S. 125 applied (with modifications) (21.11.2002 except for specified purposes) by The Scottish Parliament (Elections etc.) Order 2002 (S.I. 2002/2779), arts. 1, 81, **Sch. 6 Pts. I, II** (which S.I. was revoked (15.3.2007) by S.I. 2007/937, **art. 2(a)**)  
S. 125 applied (with modifications) (15.3.2007 except for specified purposes) by The Scottish Parliament (Elections etc.) Order 2007 (S.I. 2007/937), arts. 1, 83, **Sch. 6 Pts. I, II**

## 126 Attendance of House of Commons shorthand writer.

- (1) The shorthand writer of the House of Commons or his deputy shall attend the trial and shall be sworn by one of the judges of the election court faithfully and truly to take down the evidence given at the trial and from time to time as occasion requires to transcribe that evidence or cause it to be transcribed.
- (2) The shorthand writer shall take down the evidence and from time to time transcribe it or cause it to be transcribed and a copy of the evidence shall accompany the certificate given by the election court to the Speaker.
- (3) In Scotland <sup>F7</sup>. . . the expenses of the shorthand writer shall be deemed to be part of the expenses incurred [<sup>F8</sup>under section 125 above].

### Textual Amendments

- F7** Words repealed by Representation of the People Act 1985 (c. 50, SIF 42), s. 28, **Sch. 5**
- F8** Words substituted by Representation of the People Act 1985 (c. 50, SIF 42), s. 24, **Sch. 4 para. 47**

### Modifications etc. (not altering text)

- C21** S. 126 applied (with modifications) (E.W.S.) by S.I. 1986/2209, regs. 2, 3, 5(1)(6)-(8), **Sch. 1 Pt. I**  
S. 126 applied (with modifications) (N.I.) by S.I. 1986/2250, regs. 2, 3, 5, **Sch. 1 Pt. I**

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- S. 126 applied (with modifications) (N.I.) (4.5.1996) by S.I. 1996/1220, art. 3(1)(5)-(8), **Sch. 1**
- S. 126 applied (with modifications) (11.3.1999) by S.I. 1999/787, art. 85(1)-(3), **Sch. 6 Pts. I, II** (which S.I. was revoked (21.11.2002 except for specified purposes) by S.I. 2002/2779, **arts. 1, 2** (which S.I. was revoked (15.3.2007) by S.I. 2007/937, **art. 2(a)**))
- S. 126 applied (with modifications) (21.11.2002 except for specified purposes) by **The Scottish Parliament (Elections etc.) Order 2002 (S.I. 2002/2779)**, arts. 1, 81, **Sch. 6 Pts. I, II** (which S.I. was revoked (15.3.2007) by S.I. 2007/937, **art. 2(a)**)
- S. 126 applied (with modifications) (15.3.2007 except for specified purposes) by **The Scottish Parliament (Elections etc.) Order 2007 (S.I. 2007/937)**, arts. 1, 83, **Sch. 6 Pts. I, II**
- C22** S. 126 applied (with modifications) (1.8.2001) by S.I. 2001/2599, art. 3, **Sch. 1** (as substituted (10.2.2009) by S.I. 2009/256, arts. 1(2), 3, **Sch. 1**)

### *Questioning of a local election*

#### **127 Method of questioning local election.**

An election under the local government Act may be questioned on the ground that the person whose election is questioned—

- (a) was at the time of the election disqualified, or
- (b) was not duly elected,

or on the ground that the election was avoided by corrupt or illegal practices or on the grounds provided by section 164 or section 165 below, and shall not be questioned on any of those grounds except by an election petition.

#### **128 Presentation of petition questioning local election.**

- (1) A petition questioning an election under the local government Act may be presented either by four or more persons who voted as electors at the election or had a right so to vote, or by a person alleging himself to have been a candidate at the election.
- (2) A person whose election is questioned by the petition, and any returning officer of whose conduct the petition complains, may be made a respondent to the petition.
- (3) The petition shall be in the prescribed form signed by the petitioner and shall be presented in the prescribed manner—
  - (a) in England and Wales, to the High Court;
  - (b) in Scotland, to the sheriff principal of the sheriffdom in which the election took place or, where the election was in respect of a local authority whose area is situated within more than one sheriffdom, to the sheriffs principal of the sheriffdoms in which the area of the authority is situated.
- (4) In England and Wales the prescribed officer shall send a copy of the petition to the proper officer of the authority for which the election was held, who shall forthwith publish it in the area of that authority.

#### **Modifications etc. (not altering text)**

- C23** S. 128 applied (with modifications) (2.4.2001) by S.I. 2001/1298, reg. 19(8), **Sch. 6**
- S. 128 applied (with modifications) (W.) (24.3.2004) by **The Local Authorities (Conduct of Referendums) (Wales) Regulations 2004 (S.I. 2004/870)**, reg. 15(8), **Sch. 5** (which S.I. was revoked (24.7.2008) by S.I. 2008/1848)

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S. 128 applied (with modifications) (E.) (28.7.2007) by [The Local Authorities \(Conduct of Referendums\) \(England\) Regulations 2007 \(S.I. 2007/2089\)](#), reg. 15, [Sch. 6](#)

## 129 Time for presentation or amendment of petition questioning local election.

- (1) Subject to the provisions of this section, a petition questioning an election under the local government Act shall be presented within 21 days after the day on which the election was held.
- (2) If the petition complains of the election—
  - (a) on the ground of a corrupt practice, and
  - (b) specifically alleges that a payment of money or other reward has been made or promised since the election by a candidate elected at the election, or on his account or with his privity, in pursuance or furtherance of that corrupt practice,
 it may be presented at any time within 28 days after the date of the alleged payment or promise, whether or not any other petition against that person has been previously presented or tried.
- (3) If the petition complains of the election—
  - (a) on the ground of an illegal practice, and
  - (b) specifically alleges a payment of money or other act made or done since the election by the candidate elected at the election, or by an agent of the candidate or with the privity of the candidate or his election agent, in pursuance or in furtherance of that illegal practice,
 it may be presented at any time within 28 days after the date of that payment or act, whether or not any other petition against that person has been previously presented or tried.
- (4) If the petition complains of an election where election expenses are allowed on the ground of an illegal practice, it may be presented at any time within 14 days after the day specified in subsection (5) below.
- (5) The day referred to in subsection (4) above is—
  - (a) that on which the appropriate officer receives the return and declarations as to election expenses by that candidate and his election agent; or
  - (b) where the return and declarations are received on different days, the last of those days; or
  - (c) where there is an authorised excuse for failing to make the return and declarations, the date of the allowance of the excuse, or if there was a failure as regards two or more of them and the excuse was allowed at different times, the date of the allowance of the last excuse.
- (6) An election petition presented within the time limited by subsection (1) or subsection (2) above may for the purpose of complaining of the election upon an allegation of an illegal practice, be amended with the leave of the High Court within the time within which a petition complaining of the election on the ground of that illegal practice could, under this section, be presented.

In the application of this subsection to an election of councillors in Scotland, the reference in this subsection to subsection (2) above shall be omitted and for the reference to the High Court there shall be substituted a reference to the election court or the sheriff.



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- (7) Subsections (3), (4), (5) and (6) above apply—
- (a) notwithstanding that the act constituting the alleged illegal practice amounted to a corrupt practice; and
  - (b) to a corrupt practice under section 75 above as if it were an illegal practice.
- (8) For the purposes of this section, an allegation that an election is avoided under section 164 below shall be deemed to be an allegation of corrupt practices, notwithstanding that the offences alleged are or include offences other than corrupt practices.
- (9) In relation to an election where candidates are not required to have election agents there shall be omitted—
- (a) the references in subsection (3) and paragraph (a) of subsection (5) above to an election agent; and
  - (b) paragraphs (b) and (c) of subsection (5).

**Modifications etc. (not altering text)**

- C24** S. 129 applied (with modifications) (2.4.2001) by [S.I. 2001/1298, reg. 19\(8\), Sch. 6](#)  
S. 129 applied (with modifications) (W.) (24.3.2004) by [The Local Authorities \(Conduct of Referendums\) \(Wales\) Regulations 2004 \(S.I. 2004/870\), reg. 15\(8\), Sch. 5](#) (which S.I. was revoked (24.7.2008) by [S.I. 2008/1848](#))

**130 Election court for local election in England and Wales, and place of trial.**

- (1) A petition questioning an election in England and Wales under the local government Act shall be tried by an election court consisting of a [<sup>F9</sup>person] qualified and appointed as provided by this section.
- (2) A [<sup>F10</sup>person] shall not be qualified to constitute an election court—
- [<sup>F11</sup>(a) unless he has a 10 year High Court qualification, within the meaning of section 71 of the Courts and Legal Services Act 1990; or]
  - (b) if the court is for the trial of an election petition relating to any local government [<sup>F12</sup>area in which he resides.]
- (3) The judges for the time being on the rota for the trial of parliamentary election petitions, or any two of those judges—
- (a) may annually appoint as many [<sup>F13</sup>qualified persons], not exceeding five, as they may think necessary as commissioners for the trial of petitions questioning elections in England and Wales under the local government Act; and
  - (b) shall from time to time assign the petitions to be tried by each commissioner.
- (4) If the commissioner to whom the trial of a petition is assigned dies, or declines to act or becomes incapable of acting, those judges or two of them may assign the trial to be conducted or continued by any other of the commissioners appointed under this section.
- (5) The election court has for the purposes of the trial the same powers and privileges as a judge on the trial of a parliamentary election petition.

*Status: Point in time view as at 03/04/2006.*

*Changes to legislation: Representation of the People Act 1983, Part III is up to date with all changes known to be in force on or before 25 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

- (6) The place of trial shall be within the area of the authority for which the election was held, except that the High Court may, on being satisfied that special circumstances exist rendering it desirable that the petition should be tried elsewhere, appoint some other convenient place for the trial.
- (7) The election court may in its discretion adjourn the trial from one place to another within the local government area or place where it is held.

#### Textual Amendments

- F9** Word substituted by Courts and Legal Services Act 1990 (c. 41, SIF 37), s. 71(2), **Sch. 10 para. 50(1)**
- F10** Word substituted by Courts and Legal Services Act 1990 (c. 41, SIF 37), s. 71(2), **Sch. 10 para. 50(2)(a)**
- F11** S. 130(2)(a) substituted by Courts and Legal Services Act 1990 (c. 41, SIF 37), s. 71(2), **Sch. 10 para. 50(2)(b)**
- F12** Words in s. 130(2)(b) substituted (16.2.2001) by 2000 c. 41, s. 137, **Sch. 17 para. 2** (with s.156(6)); S.I. 2001/222, art. 2, **Sch. 1 Pt. I** (with Sch. 1 Pt. II)
- F13** Words substituted by Courts and Legal Services Act 1990 (c. 41, SIF 37), s. 71(2), **Sch. 10 para. 50(3)**

#### Modifications etc. (not altering text)

- C25** S. 130 applied (with modifications) (2.4.2001) by S.I. 2001/1298, reg. 19(8), **Sch. 6**  
S. 130 applied (with modifications) (W.) (24.3.2004) by The Local Authorities (Conduct of Referendums) (Wales) Regulations 2004 (S.I. 2004/870), reg. 15(8), **Sch. 5** (which S.I. was revoked (24.7.2008) by S.I. 2008/1848)  
S. 130 applied (with modifications) (E.) (28.7.2007) by The Local Authorities (Conduct of Referendums) (England) Regulations 2007 (S.I. 2007/2089), reg. 15, **Sch. 6**
- C26** S. 130 applied (with modifications) (W.) (24.7.2008) by The Local Authorities (Conduct of Referendums) (Wales) Regulations 2008 (S.I. 2008/1848), reg. 11, **Sch. 5**

### 131 Accommodation of and attendance on court.

- (1) The proper officer of the authority for which the election was held shall provide suitable accommodation for holding the election court constituted under section 130 above and any expenses incurred by him for the purposes of this section and section 132 below shall be paid by that authority.
- (2) The election court so constituted may employ officers and clerks as prescribed, and all constables and bailiffs shall give their assistance to the court in the execution of its duties.
- (3) A shorthand writer (whose expenses, according to a prescribed scale, shall be treated as part of the expenses incurred in receiving the election court) shall attend the trial before that court, and—
  - (a) shall be sworn by the court faithfully and truly to take down the evidence given at the trial, and
  - (b) shall take down such evidence at length,
 and a transcript of the notes of the evidence taken down by him shall, if the election court so directs, accompany the court's certificate.

*Status: Point in time view as at 03/04/2006.*

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**Modifications etc. (not altering text)**

- C27** S. 131 applied (with modifications) (2.4.2001) by [S.I. 2001/1298, reg. 19\(8\), Sch. 6](#)  
S. 131 applied (with modifications) (W.) (24.3.2004) by [The Local Authorities \(Conduct of Referendums\) \(Wales\) Regulations 2004 \(S.I. 2004/870\), reg. 15\(8\), Sch. 5](#) (which S.I. was revoked (24.7.2008) by [S.I. 2008/1848](#))  
S. 131 applied (E.) (28.7.2007) by [The Local Authorities \(Conduct of Referendums\) \(England\) Regulations 2007 \(S.I. 2007/2089\), reg. 15, Sch. 6](#)
- C28** S. 131 applied (W.) (24.7.2008) by [The Local Authorities \(Conduct of Referendums\) \(Wales\) Regulations 2008 \(S.I. 2008/1848\), reg. 11, Sch. 5](#)

**132 Remuneration and allowances.**

- (1) The remuneration and allowances to be paid to the commissioner for his services in respect of that trial and to any officers, clerks or shorthand writers employed under section 131 above in relation to that trial shall be fixed by a scale made and varied by the judges on the rota for the trial of parliamentary election petitions, with the Treasury's approval.
- (2) The remuneration and allowances shall be paid in the first instance by the Treasury and shall be repaid to the Treasury on their certificate by the authority for which the election was held.

**Modifications etc. (not altering text)**

- C29** S. 132 applied (with modifications) (2.4.2001) by [S.I. 2001/1298, reg. 19\(8\), Sch. 6](#)  
S. 132 applied (with modifications) (W.) (24.3.2004) by [The Local Authorities \(Conduct of Referendums\) \(Wales\) Regulations 2004 \(S.I. 2004/870\), reg. 15\(8\), Sch. 5](#) (which S.I. was revoked (24.7.2008) by [S.I. 2008/1848](#))  
S. 132 applied (E.) (28.7.2007) by [The Local Authorities \(Conduct of Referendums\) \(England\) Regulations 2007 \(S.I. 2007/2089\), reg. 15, Sch. 6](#)
- C30** S. 132 applied (W.) (24.7.2008) by [The Local Authorities \(Conduct of Referendums\) \(Wales\) Regulations 2008 \(S.I. 2008/1848\), reg. 11, Sch. 5](#)

**133 Repayments under ss. 131 and 132.**

- (1) The election court constituted under section 130 above may in its discretion order that—
  - (a) the expenses referred to in section 131 above, incurred by the proper officer of the authority for receiving the court, or
  - (b) the remuneration and allowances referred to in section 132 above,shall be repaid, wholly or in part, to the proper officer of the authority or to the Treasury, as the case may be—
  - (i) when, in the opinion of the election court, the petition is frivolous and vexatious, by the petitioner;
  - (ii) when, in the opinion of the election court, the respondent has been personally guilty of corrupt practices at the election, by that respondent.
- (2) The order so made for the repayment of any sum by a petitioner or respondent may be enforced as an order for payment of costs, but a deposit made or a security given

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under this Part of this Act shall not be applied for any such repayment until all costs and expenses payable by the petitioner or respondent to any party to the petition have been satisfied.

**Modifications etc. (not altering text)**

- C31** S. 133 applied (with modifications) (2.4.2001) by S.I. 2001/1298, reg. 19(8), **Sch. 6**  
S. 133 applied (with modifications) (W.) (24.3.2004) by **The Local Authorities (Conduct of Referendums) (Wales) Regulations 2004** (S.I. 2004/870), reg. 15(8), **Sch. 5** (which S.I. was revoked (24.7.2008) by S.I. 2008/1848)  
S. 133 applied (E.) (28.7.2007) by **The Local Authorities (Conduct of Referendums) (England) Regulations 2007** (S.I. 2007/2089), reg. 15, **Sch. 6**
- C32** S. 133 applied (W.) (24.7.2008) by **The Local Authorities (Conduct of Referendums) (Wales) Regulations 2008** (S.I. 2008/1848), reg. 11, **Sch. 5**

**134 Election court for local election in Scotland, and place of trial.**

- (1) An election petition questioning an election of councillors in Scotland, and all proceedings incidental to and consequent on it, except as otherwise provided, shall be tried—
- (a) by the sheriff principal of the sheriffdom within which the challenged election took place; or
  - (b) where the election was in respect of a local authority whose area is situated within more than one sheriffdom, by the sheriffs principal of the sheriffdoms in which the area of the authority is situated; and where in such a case the sheriffs principal are unable to reach a unanimous decision, they shall state a case for the Court of Session and the Court may pronounce any deliverance which it would have been competent for the sheriffs principal to make.
- (2) The election court has for the purposes of the trial the same powers and privileges as a judge on the trial of a parliamentary election petition, except that any fine or order of committal unless imposed or made by the Court of Session in consequence of a case stated under subsection (1) above may, on summary application by the person aggrieved, be discharged or varied by the Court of Session, or in vacation by the judge acting as vacation judge on such terms, if any, as the Court of Session or judge may think fit.
- (3) The place of trial shall be such place within the sheriffdom or sheriffdoms in which the area of the local authority is situated as the election court may determine.
- (4) The election court may in its discretion adjourn the trial from one place to another within that sheriffdom or those sheriffdoms.
- (5) The travelling and other expenses of the sheriff principal incurred by him in the execution of his duties under this Part of this Act shall be paid by the authority for which the election was held, but the election court may order repayment of those expenses to that authority by the parties to the petition or any of them, in such proportion as shall to the court seem proper.
- (6) A shorthand writer shall attend at the trial of the petition, and shall be sworn by the election court faithfully and truly to take down the evidence given at the trial, and he shall take down the evidence at length.

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### **135 Consequences of local election declared void.**

- (1) Where on a petition questioning an election under the local government Act—
  - (a) the election of any person has been declared void, and
  - (b) no other person has been declared elected in his place,a new election shall be held to fill the vacancy in the same manner as on a casual vacancy.

[<sup>F14</sup>(1A) Subsection (1) above shall not apply in the case of an election of the London members of the London Assembly at an ordinary election (for which separate provision is made by section 135A below).]

- (2) For the purposes of that election any duties to be performed by any officer shall, if he has been declared not elected, be performed by a deputy or other person who might have acted for him if he had been incapacitated by illness.
- (3) This section does not apply to Scotland.

#### **Textual Amendments**

**F14** S. 135(1A) inserted (14.12.1999) by 1999 c. 29, s. 17, Sch. 3 para. 32(1) (with Sch. 12 para. 9(1)); S.I. 1999/3376, art. 2

### **[<sup>F15</sup>135A Consequences of election or return of London members being declared void.**

- (1) This section applies where the election court has made a determination under section 145 below at the conclusion of the trial of a petition questioning the election of the London members of the London Assembly at an ordinary election.
- (2) Where, pursuant to section 145(6) below, the proper officer of the Greater London Authority receives the copy of the certificate of the election court's determination in relation to the election which was questioned, he shall send notice of the determination to the Greater London returning officer.
- (3) If the election is not declared void but—
  - (a) the return of a candidate at the election is declared void, and
  - (b) no other person has been declared returned in his place,the vacancy shall be filled (or, as the case may be, remain unfilled) as if it were a casual vacancy (see section 11 of the Greater London Authority Act 1999).
- (4) If the election is declared void, a new election shall be held in the same manner as at an ordinary election.
- (5) The date of the poll at the new election shall be fixed by the Greater London returning officer.
- (6) The date fixed shall be no later than three months after the receipt by the Greater London returning officer of the notice under subsection (2) above.
- (7) A new election shall not be held if the latest date which may be fixed for the poll falls within the period of three months preceding an ordinary election.

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- (8) If the determination of the election court is that the election is void, the Greater London returning officer shall inform the returning officer for each Assembly constituency of—
- (a) the contents of the notice under subsection (2) above; and
  - (b) the date fixed for the poll at the new election.
- (9) The results of the elections of the constituency members of the London Assembly at the last ordinary election shall have effect for the purposes of ascertaining the results of the new election.]

#### Textual Amendments

**F15** S. 135A inserted (14.12.1999) by 1999 c. 29, s. 17, **Sch. 3**, para. 32(2) (with Sch. 12 para. 9(1)); S.I. 1999/3376, art. 2

#### *Procedure on all election petitions*

### 136 Security for costs.

- (1) At the time of presenting an election petition or within three days afterwards the petitioner shall give security for all costs which may become payable by him to any witness summoned on his behalf or to any respondent.
- (2) The security shall be—
- (a) in the case of a parliamentary election petition, [<sup>F16</sup>such amount not exceeding £5,000 as the High Court or a judge of the High Court, [<sup>F17</sup>directs on an application made by the petitioner]]; and
  - (b) in the case of a petition questioning an election under the local government Act, such amount not exceeding [<sup>F18</sup>£2,500] as the High Court, or a judge of the High Court, [directs on an application made by the petitioner],
- and shall be given in the prescribed manner by recognisance entered into by any number of sureties not exceeding four or by a deposit of money, or partly in one way and partly in the other; but in Scotland—
- (i) [<sup>F19</sup>the amount mentioned in paragraph (a) above shall be such amount not exceeding £5,000 as the Court of Session or a judge of the Court of Session directs and] the amount mentioned in paragraph (b) above shall be such amount not exceeding [<sup>F20</sup>£2,500] as the election court or the sheriff directs; and
  - (ii) the persons finding caution for that amount may exceed four.
- [<sup>F21</sup>(3) Within the prescribed time after giving the security the petitioner shall serve on the respondent in the prescribed manner—
- (a) a notice of the presentation of the petition and of the amount and nature of the security, and
  - (b) a copy of the petition.]
- (4) Within a further prescribed time, [<sup>F22</sup> . . . the respondent may object in writing to any recognisance on the ground that any surety is insufficient or is dead or cannot be found or ascertained for want of a sufficient description in the recognisance, or that a person named in the recognisance has not duly acknowledged the recognisance.

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- F<sup>23</sup>(5) . . . . .
- (6) An objection to a recognisance shall be decided in the prescribed manner.
- (7) If the objection is allowed, the petitioner may within a further prescribed time <sup>F<sup>24</sup></sup> . . . , remove it by a deposit in the prescribed manner of such sum of money as will, in the opinion of the court or officer having cognisance of the matter, make the security sufficient.
- (8) If no security is given as required by this section or any objection is allowed and not removed as mentioned above, no further proceedings shall be had on the petition.

### Textual Amendments

- F16** Words substituted by [Representation of the People Act 1985 \(c. 50, SIF 42\)](#), s. 24, **Sch. 4 para. 48(a)**
- F17** Words in s. 136(2) substituted (16.2.2001) by 2000 c. 41, s. 138(1)(2), **Sch. 18 para. 19(4)**, with s. 156(6)); [S.I. 2001/222](#), art. 2, Sch. I Pt. I (with **Sch. 1 Pt. II**)
- F18** "£2,500" substituted by [Representation of the People Act 1985 \(c. 50, SIF 42\)](#), s. 24, **Sch. 4 para. 48(b)**
- F19** Words inserted by [Representation of the People Act 1985 \(c. 50, SIF 42\)](#), s. 24, **Sch. 4 para. 48(c)(i)**
- F20** "£2,500" substituted by [Representation of the People Act 1985 \(c. 50, SIF 42\)](#), s. 24, **Sch. 4 para. 48(c)(ii)**
- F21** S. 136(3) substituted by [Representation of the People Act 1985 \(c. 50, SIF 42\)](#), s. 24, **Sch. 4 para. 48(d)**
- F22** Words repealed by [Representation of the People Act 1985 \(c. 50, SIF 42\)](#), ss. 24, 28, **Sch. 4 para. 48(e)(i)**, Sch. 5
- F23** S. 136(5) repealed by [Representation of the People Act 1985 \(c. 50, SIF 42\)](#), ss. 24, 28, **Sch. 4 para. 48(e)(ii)**, Sch. 5
- F24** Words repealed by [Representation of the People Act 1985 \(c. 50, SIF 42\)](#), ss. 24, 28, **Sch. 4 para. 48(e)(iii)**, Sch. 5

### Modifications etc. (not altering text)

- C33** S. 136 applied (E.W.S.) by [S.I. 1986/2209](#), regs. 2, 3, 5(1)(6)-(8), **Sch. 1 Pt. I**  
S. 136 applied (N.I.) by [S.I. 1986/2250](#), regs. 2, 3, 5, **Sch. 1 Pt. I**
- C34** S. 136 applied (with modifications) (N.I.) (4.5.1996) by [S.I. 1996/1220](#), art. 3(1)(b)(5)-(8), **Sch. 1**  
S. 136 applied (with modifications) (11.3.1999) by [S.I. 1999/787](#), art. 85(1)-(3), Sch. 6 Pts. I, II (which S.I. was revoked (21.11.2002 except for specified purposes) by [S.I. 2002/2779](#), arts. 1, 2 (which S.I. was revoked (15.3.2007) by [S.I. 2007/937](#), art. 2(a)))  
S. 136 applied (with modifications) (W.) (24.3.2004) by [The Local Authorities \(Conduct of Referendums\) \(Wales\) Regulations 2004 \(S.I. 2004/870\)](#), reg. 15(8), **Sch. 5** (which S.I. was revoked (24.7.2008) by [S.I. 2008/1848](#))  
S. 136 applied (with modifications) (2.4.2001) by [S.I. 2001/1298](#), reg. 19(8), **Sch. 6**  
S. 136 applied (with modifications) (21.11.2002 except for specified purposes) by [The Scottish Parliament \(Elections etc.\) Order 2002 \(S.I. 2002/2779\)](#), arts. 1, 81, **Sch. 6 Pts. I, II** (which S.I. was revoked (15.3.2007) by [S.I. 2007/937](#), art. 2(a))  
S. 136 applied (with modifications) (15.3.2007 except for specified purposes) by [The Scottish Parliament \(Elections etc.\) Order 2007 \(S.I. 2007/937\)](#), arts. 1, 83, **Sch. 6 Pts. I, II**  
S. 136 applied (with modifications) (E.) (28.7.2007) by [The Local Authorities \(Conduct of Referendums\) \(England\) Regulations 2007 \(S.I. 2007/2089\)](#), reg. 15, **Sch. 6**
- C35** S. 136 applied (with modifications) (W.) (24.7.2008) by [The Local Authorities \(Conduct of Referendums\) \(Wales\) Regulations 2008 \(S.I. 2008/1848\)](#), reg. 11, **Sch. 5**
- C36** S. 136 applied (with modifications) (1.8.2001) by [S.I. 2001/2599](#), art. 3, Sch. 1 (as substituted (10.2.2009) by [S.I. 2009/256](#), arts. 1(2), 3, **Sch. 1**)

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**C37** S. 136(2)(b) applied (with modifications) (E.W.) (2.1.2007 for certain purposes) by [The Local Elections \(Parishes and Communities\) \(England and Wales\) Rules 2006 \(S.I. 2006/3305\)](#), [rule 6\(b\)](#)

[<sup>F25</sup>**137** **Petition at issue.**

- (1) The petition shall be at issue as from the relevant time, as defined by subsection (2) below.
- (2) In this section “the relevant time” means—
  - (a) where the petitioner gives the security for costs required by section 136 above by a deposit of money equal to the amount of the security so required, the time when the security is so given; and
  - (b) in any other case, the time when—
    - (i) the time prescribed for the making of objections under section 136(4) above expires, or
    - (ii) if such an objection is made, that objection is disallowed or removed, whichever happens later.]

**Textual Amendments**

**F25** S. 137 substituted (16.2.2001) by [2000 c. 41 s. 137, Sch. 17 para. 3\(1\)](#) (with s. 156(6), Sch. 17 para. 3(2)); [S.I. 2001/222, art. 2 Sch. 1 Pt. I](#)

**Modifications etc. (not altering text)**

- C38** S. 137 applied (with modifications) (2.4.2001) by [S.I. 2001/1298, reg. 19\(8\)](#), [Sch. 6](#)  
S. 137 applied (with modifications) (21.11.2002 except for specified purposes) by [The Scottish Parliament \(Elections etc.\) Order 2002 \(S.I. 2002/2779\)](#), arts. 1, 81, [Sch. 6 Pts. I, II](#) (which S.I. was revoked (15.3.2007) by [S.I. 2007/937, art. 2\(a\)](#))  
S. 137 applied (W.) (24.3.2004) by [The Local Authorities \(Conduct of Referendums\) \(Wales\) Regulations 2004 \(S.I. 2004/870\)](#), reg. 15(8), [Sch. 5](#) (which S.I. was revoked (24.7.2008) by [S.I. 2008/1848](#))  
S. 137 applied (with modifications) (15.3.2007 except for specified purposes) by [The Scottish Parliament \(Elections etc.\) Order 2007 \(S.I. 2007/937\)](#), arts. 1, 83, [Sch. 6 Pts. I, II](#)
- C39** S. 137 applied (E.) (28.7.2007) by [The Local Authorities \(Conduct of Referendums\) \(England\) Regulations 2007 \(S.I. 2007/2089\)](#), reg. 15, [Sch. 6](#)
- C40** S. 137 applied (with modifications) (W.) (24.7.2008) by [The Local Authorities \(Conduct of Referendums\) \(Wales\) Regulations 2008 \(S.I. 2008/1848\)](#), reg. 11, [Sch. 5](#)
- C41** S. 137 applied (with modifications) (1.8.2001) by [S.I. 2001/2599, art. 3, Sch. 1](#) (as substituted (10.2.2009) by [S.I. 2009/256, arts. 1\(2\), 3, Sch. 1](#))

**138** **List of petitions.**

- (1) The prescribed officer shall—
  - (a) as soon as may be, make out a list of all election petitions at issue presented to the court of which he is officer, placing them in the order in which they were presented, and
  - (b) keep at his office a copy of the list, open to inspection in the prescribed manner,
 and the petitions questioning elections under the local government Act shall be in a separate list<sup>F26</sup> . . .



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- (2) The petitions shall, so far as convenient, be tried in the order in which they stand in the list.
- (3) In the case of a petition questioning an election under the local government Act, two or more candidates may be made respondents to the same petition, and their cases may be tried at the same time, but for the purposes of this Part of this Act the petition shall be deemed to be a separate petition against each respondent.
- (4) Where more petitions than one are presented relating to the same election or to elections under the local government Act held at the same time for more than one electoral area in the same local government area, all those petitions shall be bracketed together in the election list and shall be dealt with as one petition, standing, unless the High Court otherwise direct, in the election list in the place where the last of them would have stood if it had been the only petition presented.
- (5) Subsections (1), (2) and (4) above do not apply in relation to petitions questioning an election of councillors in Scotland but where two or more of those petitions are presented relating to the same election they shall be tried together.

#### Textual Amendments

- F26** Words in s. 138(1) repealed by 2000 c. 41, ss. 137, 158(2), Sch. 17 para. 4, **Sch. 22** (with ss. 156(6), 158(3)); S.I. 2001/222, art. 2, **Sch. 1 Pt. I** (with Sch. 1 Pt. II)

#### Modifications etc. (not altering text)

- C42** S. 138 applied (E.W.S.) by S.I. 1986/2209, regs. 2, 3, 5(1)(6)–(8), **Sch. 1 Pt. I**
- C43** S. 138 applied (with modifications) (N.I.) by S.I. 1986/2250, regs. 2, 3, 5, **Sch. 1 Pt. I**  
S. 138 applied (with modifications) (N.I.) (4.5.1996) by S.I. 1996/1220, art. 3(1)(b)(5)–(8), **Sch. 1**  
S. 138 applied (with modifications) (11.3.1999) by S.I. 1999/787, art. 85(1)(2), **Sch. 6 Pt. I** (which S.I. was revoked (21.11.2002 except for specified purposes) by S.I. 2002/2779, arts. 1, 2 (which S.I. was revoked (15.3.2007) by S.I. 2007/937, art. 2(a)))  
S. 138 applied (with modifications) (2.4.2001) by S.I. 2001/1298, reg. 19(8), **Sch. 6**  
S. 138 applied (with modifications) (21.11.2002 except for specified purposes) by The Scottish Parliament (Elections etc.) Order 2002 (S.I. 2002/2779), arts. 1, 81, **Sch. 6 Pt. I** (which S.I. was revoked (15.3.2007) by S.I. 2007/937, art. 2(a))  
S. 138 applied (with modifications) (W.) (24.3.2004) by The Local Authorities (Conduct of Referendums) (Wales) Regulations 2004 (S.I. 2004/870), reg. 15(8), **Sch. 5** (which S.I. was revoked (24.7.2008) by S.I. 2008/1848)  
S. 138 applied (with modifications) (15.3.2007 except for specified purposes) by The Scottish Parliament (Elections etc.) Order 2007 (S.I. 2007/937), arts. 1, 83, **Sch. 6 Pt. I**  
S. 138 applied (with modifications) (E.) (28.7.2007) by The Local Authorities (Conduct of Referendums) (England) Regulations 2007 (S.I. 2007/2089), reg. 15, **Sch. 6**
- C44** S. 138 applied (with modifications) (W.) (24.7.2008) by The Local Authorities (Conduct of Referendums) (Wales) Regulations 2008 (S.I. 2008/1848), reg. 11, **Sch. 5**
- C45** S. 138 applied (with modifications) (1.8.2001) by S.I. 2001/2599, art. 3, **Sch. 1** (as substituted (10.2.2009) by S.I. 2009/256, arts. 1(2), 3, **Sch. 1**)

### 139 Trial of petition.

- (1) An election petition shall be tried in open court, without a jury, and notice of the time and place of trial shall be given in the prescribed manner, not less than, in the case of

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a parliamentary election petition, 14 days and in any other case, seven days, before the day of trial.

- (2) The election court may in its discretion adjourn the trial from time to time, but the trial shall, so far as is practicable consistently with the interests of justice in respect of the trial, be continued from day to day on every lawful day until its conclusion.
- (3) The trial of a parliamentary election petition shall be proceeded with notwithstanding the acceptance by the respondent of an office vacating his seat in Parliament and notwithstanding the prorogation of Parliament; and the trial of a petition questioning an election under the local government Act shall be proceeded with notwithstanding that the respondent has ceased to hold the office his election to which is questioned by the petition.
- (4) On the trial of a petition, unless the court otherwise directs, any charge of a corrupt practice may be gone into, and evidence in relation to it received, before any proof has been given of agency on behalf of any candidate in respect of the corrupt practice.

In relation to an election in England and Wales under the local government Act, this subsection applies as if corrupt practices included illegal practices.

- (5) On the trial of a petition complaining of an undue election and claiming the seat or office for some person, the respondent may give evidence to prove that that person was not duly elected, in the same manner as if he had presented a petition against the election of that person.
- (6) If the petition relates to an election conducted under the parliamentary elections rules or the rules under section 36 or section 42 above and it appears that there is an equality of votes between any candidates at the election, and that the addition of a vote would entitle any of those candidates to be declared elected then—
  - (a) any decision under the provisions as to equality of votes in the parliamentary elections rules or the rules under section 36 or section 42, as the case may be, shall in so far as it determines the question between those candidates, be effective also for the purposes of the petition; and
  - (b) in so far as that question is not determined by such a decision, the court shall decide between them by lot and proceed as if the one on whom the lot then falls had received an additional vote.

#### **Modifications etc. (not altering text)**

- C46** S. 139 applied (with modifications) (N.I.) by S.I. 1986/2250, regs. 2, 3, 5, **Sch. 1 Pt. I**  
 S. 139 applied (with modifications) (E.W.S.) by S.I. 1986/2209, regs. 2, 3, 5(1)(6)-(8), **Sch. 1 Pt. I**  
 S. 139 applied (with modifications) (N.I.) (4.5.1996) by S.I. 1996/1220, art. 3(1)(5)-(8), **Sch. 1**  
 S. 139 applied (with modifications) (11.3.1999) by S.I. 1999/787, art. 85(1)-(3), **Sch. 6 Pts. I, II** (which S.I. was revoked (21.11.2002 except for specified purposes) by S.I. 2002/2779, **arts. 1, 2** (which S.I. was revoked (15.3.2007) by S.I. 2007/937, **art. 2(a)**))  
 S. 139 applied (with modifications) (2.4.2001) by S.I. 2001/1298, reg. 19(8), **Sch. 6**  
 S. 139 applied (with modifications) (21.11.2002 except for specified purposes) by **The Scottish Parliament (Elections etc.) Order 2002** (S.I. 2002/2779), arts. 1, 81, **Sch. 6 Pts. I, II** (which S.I. was revoked (15.3.2007) by S.I. 2007/937, art. 2(a))  
 S. 139 applied (with modifications) (W.) (24.3.2004) by **The Local Authorities (Conduct of Referendums) (Wales) Regulations 2004** (S.I. 2004/870), reg. 15(8), **Sch. 5** (which S.I. was revoked (24.7.2008) by S.I. 2008/1848)

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- S. 139 applied (with modifications) (15.3.2007 except for specified purposes) by [The Scottish Parliament \(Elections etc.\) Order 2007 \(S.I. 2007/937\)](#), arts. 1, 83, **Sch. 6 Pts. I, II**
- S. 139 applied (with modifications) (E.) (28.7.2007) by [The Local Authorities \(Conduct of Referendums\) \(England\) Regulations 2007 \(S.I. 2007/2089\)](#), reg. 15, **Sch. 6**
- C47** S. 139 applied (with modifications) (W.) (24.7.2008) by [The Local Authorities \(Conduct of Referendums\) \(Wales\) Regulations 2008 \(S.I. 2008/1848\)](#), reg. 11, **Sch. 5**
- C48** S. 139 applied (with modifications) (1.8.2001) by [S.I. 2001/2599](#), art. 3, **Sch. 1** (as substituted (10.2.2009) by [S.I. 2009/256](#), arts. 1(2), 3, **Sch. 1**)

## 140 Witnesses.

- (1) Witnesses shall be summoned and sworn in the same manner as nearly as circumstances admit as in an action tried in the High Court, but this subsection does not apply to Scotland in relation to an election of councillors.
- (2) On the trial a member of the election court may, by order signed by him, require any person who appears to him to have been concerned in the election to attend as a witness, and any person refusing to obey the order shall be guilty of contempt of court.
- (3) The election court may examine any person so required to attend or who is in court although he is not called and examined by any party to the petition.
- (4) A witness may, after his examination by the court, be cross-examined by or on behalf of the petitioner and respondent, or either of them.
- <sup>F27</sup>(5) . . . . .
- (6) The Director of Public Prosecutions shall without any direction from the court cause any person appearing to him to be able to give material evidence as to the subject of the trial to attend the trial and shall, with the leave of the court, examine him as a witness.
- (7) [<sup>F28</sup>Subsection (6) above does] not apply to Scotland, and in Scotland one of the deposes of the Lord Advocate or the procurator fiscal of the district [<sup>F29</sup>may, if the Lord Advocate so decides, and shall, if the election court so requests] attend the trial of the petition as part of his official duty <sup>F30</sup> . . . .

### Textual Amendments

- F27** S. 140(5) repealed by [Representation of the People Act 1985 \(c. 50, SIF 42\)](#), ss. 24, 28, **Sch. 4 para. 49(a)**, Sch. 5
- F28** Words substituted by [Representation of the People Act 1985 \(c. 50, SIF 42\)](#), s. 24, **Sch. 4 para. 49(b)** (i)
- F29** Words substituted by [Representation of the People Act 1985 \(c. 50, SIF 42\)](#), s. 24, **Sch. 4 para. 49(b)** (ii)
- F30** Words repealed by [Representation of the People Act 1985 \(c. 50, SIF 42\)](#), ss. 24, 28, **Sch. 4 para. 49(b)(iii)**, Sch. 5

### Modifications etc. (not altering text)

- C49** S. 140 applied (E.W.S.) by [S.I. 1986/2209](#), regs. 2, 3, 5(1)(6)-(8), **Sch. 1 Pt. I**
- S. 140 applied (N.I.) by [S.I. 1986/2250](#), regs. 2, 3, 5, **Sch. 1 Pt. I**
- C50** S. 140 applied (with modifications) (N.I.) (4.5.1996) by [S.I. 1996/1220](#), art. 3(1)(b)(5)-(8), **Sch. 1**
- S. 140 applied (with modifications) (11.3.1999) by [S.I. 1999/787](#), art. 85(1)-(3), **Sch. 6 Pts. I, II** (which S.I. was revoked (21.11.2002 except for specified purposes) by [S.I. 2002/2779](#), **arts. 1, 2** (which S.I. was revoked (15.3.2007) by [S.I. 2007/937](#), **art. 2(a)**))

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- S. 140 applied (with modifications) (2.4.2001) by S.I. 2001/1298, reg. 19(8), **Sch. 6**
- S. 140 applied (with modifications) (21.11.2002 except for specified purposes) by The Scottish Parliament (Elections etc.) Order 2002 (S.I. 2002/2779), arts. 1, 81, **Sch. 6 Pts. I, II** (which S.I. was revoked (15.3.2007) by S.I. 2007/937, art. 2(a))
- S. 140 applied (with modifications) (W.) (24.3.2004) by The Local Authorities (Conduct of Referendums) (Wales) Regulations 2004 (S.I. 2004/870), reg. 15(8), **Sch. 5** (which S.I. was revoked (24.7.2008) by S.I. 2008/1848)
- S. 140 applied (with modifications) (15.3.2007 except for specified purposes) by The Scottish Parliament (Elections etc.) Order 2007 (S.I. 2007/937), arts. 1, 83, **Sch. 6 Pts. I, II**
- S. 140 applied (E.) (28.7.2007) by The Local Authorities (Conduct of Referendums) (England) Regulations 2007 (S.I. 2007/2089), reg. 15, **Sch. 6**
- C51** S. 140 applied (W.) (24.7.2008) by The Local Authorities (Conduct of Referendums) (Wales) Regulations 2008 (S.I. 2008/1848), reg. 11, **Sch. 5**
- C52** S. 140 applied (with modifications) (1.8.2001) by S.I. 2001/2599, art. 3, Sch. 1 (as substituted (10.2.2009) by S.I. 2009/256, arts. 1(2), 3, **Sch. 1**)

#### 141 Duty to answer relevant questions.

- (1) A person called as a witness respecting an election before any election court shall not be excused from answering any question relating to any offence at or connected with the election—
- (a) on the ground that the answer to it may incriminate or tend to incriminate—
    - (i) that person or that person's [<sup>F31</sup>spouse or civil partner,] , or
    - (ii) in Scotland, that person; or
  - (b) on the ground of privilege.
- (2) An answer by a person to a question put by or before any election court shall not, except in the case of any criminal proceeding for perjury in respect of the evidence, be in any proceeding, civil or criminal, admissible in evidence against—
- (a) that person or that person's [<sup>F31</sup>spouse or civil partner,] ; or
  - (b) in Scotland, that person.

<sup>F32</sup>(3) .....

#### Textual Amendments

- F31** Words in s. 141(1)(a)(i)(2)(a) substituted (5.12.2005) by Civil Partnership Act 2004 (c. 33), ss. 261(1), 263, **Sch. 27 para. 84**; S.I. 2005/3175, **art. 2**, Sch.
- F32** S. 141(3)(4) repealed by Representation of the People Act 1985 (c. 50, SIF 42), ss. 24, 28, Sch. 4 para. 50, **Sch. 5**

#### Modifications etc. (not altering text)

- C53** S. 141 applied (E.W.S.) by S.I. 1986/2209, regs. 2, 3, 5(1)(6)-(8), **Sch. 1 Pt. I**
- S. 141 applied (N.I.) by S.I. 1986/2250, regs. 2, 3, 5, **Sch. 1 Pt. I**
- C54** S. 141 applied (E.) (28.7.2007) by The Local Authorities (Conduct of Referendums) (England) Regulations 2007 (S.I. 2007/2089), reg. 15, **Sch. 6**
- C55** S. 141 applied (with modifications) (N.I.) (4.5.1996) by S.I. 1996/1220, art. 3(1)(b)(5)-(8), **Sch. 1**
- S. 141 applied (with modifications) (11.3.1999) by S.I. 1999/787, art. 85(1)-(3), Sch. 6 Pts. I, II (which S.I. was revoked (21.11.2002 except for specified purposes) by S.I. 2002/2779, **arts. 1, 2** (which S.I. was revoked (15.3.2007) by S.I. 2007/937, **art. 2(a)**))
- S. 141 applied (with modifications) (2.4.2001) by S.I. 2001/1298, reg. 19(8), **Sch. 6**

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S. 141 applied (with modifications) (21.11.2002 except for specified purposes) by [The Scottish Parliament \(Elections etc.\) Order 2002 \(S.I. 2002/2779\)](#), arts. 1, 81, **Sch. 6 Pts. I, II** (which S.I. was revoked (15.3.2007) by [S.I. 2007/937](#), art. 2(a))

S. 141 applied (W.) (24.3.2004) by [The Local Authorities \(Conduct of Referendums\) \(Wales\) Regulations 2004 \(S.I. 2004/870\)](#), reg. 15(8), **Sch. 5** (which S.I. was revoked (24.7.2008) by [S.I. 2008/1848](#))

**C56** S. 141 applied (with modifications) (15.3.2007 except for specified purposes) by [The Scottish Parliament \(Elections etc.\) Order 2007 \(S.I. 2007/937\)](#), arts. 1, 83, **Sch. 6 Pts. I, II**

**C57** S. 141 applied (W.) (24.7.2008) by [The Local Authorities \(Conduct of Referendums\) \(Wales\) Regulations 2008 \(S.I. 2008/1848\)](#), reg. 11, **Sch. 5**

**C58** S. 141 applied (with modifications) (1.8.2001) by [S.I. 2001/2599](#), art. 3, **Sch. 1** (as substituted (10.2.2009) by [S.I. 2009/256](#), arts. 1(2), 3, **Sch. 1**)

<sup>F33</sup>**142** .....

#### Textual Amendments

**F33** S. 142 repealed by [Representation of the People Act 1985 \(c. 50, SIF 42\)](#), ss. 24, 28, **Sch. 4 para. 50, Sch. 5**

### **143 Expenses of witnesses.**

- (1) The reasonable expenses incurred by any person in appearing to give evidence at the trial of an election petition, according to the scale allowed to witnesses on the trial of civil actions, may be allowed to him by a certificate of the election court or of the prescribed officer.
- (2) If the witness was called and examined by virtue of section 140(2) above, the expenses referred to in subsection (1) above shall be deemed part of the expenses of providing a court, but otherwise they shall be deemed costs of the petition.

This subsection does not apply to Scotland in relation to an election of councillors.

#### Modifications etc. (not altering text)

**C59** S. 143 applied (E.W.S.) by [S.I. 1986/2209](#), regs. 2, 3, 5(1)(6)-(8), **Sch. 1 Pt. I**

S. 143 applied (N.I.) by [S.I. 1986/2250](#), regs. 2, 3, 5, **Sch. 1 Pt. I**

S. 143 applied (E.) (28.7.2007) by [The Local Authorities \(Conduct of Referendums\) \(England\) Regulations 2007 \(S.I. 2007/2089\)](#), reg. 15, **Sch. 6**

**C60** S. 143 applied (with modifications) (N.I.) (4.5.1996) by [S.I. 1996/1220](#), art. 3(1)(b)(5)-(8), **Sch. 1**

S. 143 applied (with modifications) (11.3.1999) by [S.I. 1999/787](#), art. 85(1)-(3), **Sch. 6 Pts. I, II** (which S.I. was revoked (21.11.2002 except for specified purposes) by [S.I. 2002/2779](#), arts. 1, 2 (which S.I. was revoked (15.3.2007) by [S.I. 2007/937](#), art. 2(a)))

S. 143 applied (with modifications) (2.4.2001) by [S.I. 2001/1298](#), reg. 19(8), **Sch. 6**

S. 143 applied (with modifications) (21.11.2002 except for specified purposes) by [The Scottish Parliament \(Elections etc.\) Order 2002 \(S.I. 2002/2779\)](#), arts. 1, 81, **Sch. 6 Pts. I, II** (which S.I. was revoked (15.3.2007) by [S.I. 2007/937](#), art. 2(a))

S. 143 applied (with modifications) (W.) (24.3.2004) by [The Local Authorities \(Conduct of Referendums\) \(Wales\) Regulations 2004 \(S.I. 2004/870\)](#), reg. 15(8), **Sch. 5** (which S.I. was revoked (24.7.2008) by [S.I. 2008/1848](#))

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- S. 143 applied (with modifications) (15.3.2007 except for specified purposes) by [The Scottish Parliament \(Elections etc.\) Order 2007 \(S.I. 2007/937\)](#), arts. 1, 83, [Sch. 6 Pts. I, II](#)
- C61** S. 143 applied (W.) (24.7.2008) by [The Local Authorities \(Conduct of Referendums\) \(Wales\) Regulations 2008 \(S.I. 2008/1848\)](#), reg. 11, [Sch. 5](#)
- C62** S. 143 applied (with modifications) (1.8.2001) by [S.I. 2001/2599](#), art. 3, [Sch. 1](#) (as substituted (10.2.2009) by [S.I. 2009/256](#), arts. 1(2), 3, [Sch. 1](#))

#### 144 Conclusion of trial of parliamentary election petition.

- (1) At the conclusion of the trial of a parliamentary election petition, the election court shall determine whether the member whose election or return is complained of, or any and what other person, was duly returned or elected or whether the election was void, and the determination so certified shall be final to all intents as to the matters at issue on the petition.
- (2) The election court shall forthwith certify in writing the determination to the Speaker.
- (3) If the judges constituting the election court—
  - (a) differ as to whether the member whose election or return is complained of was duly elected or returned, they shall certify that difference and the member shall be deemed to be duly elected or returned;
  - (b) determine that the member was not duly elected or returned but differ as to the rest of the determination, they shall certify that difference and the election shall be deemed to be void.
- (4) Where any charge is made in the petition of any corrupt or illegal practice having been committed at the election the court shall, in addition to giving a certificate, and at the same time, make a report to the Speaker as required by sections 158 and 160 below and also stating whether corrupt or illegal practices have, or whether there is reason to believe that corrupt or illegal practices have, extensively prevailed at the election.
- (5) The election court may at the same time make a special report to the Speaker as to matters arising in the course of the trial an account of which in the judgment of the court ought to be submitted to the House of Commons.
- (6) Every report sent to the Speaker under this section shall be signed by both judges of the election court and if the judges differ as to the subject of the report, they shall certify that difference and make no report on the subject on which they so differ.
- (7) The House of Commons, on being informed by the Speaker of a certificate and any report of an election court, shall order the certificate and report (if any) to be entered in their journals and shall give the necessary direction—
  - (a) for confirming or altering the return, or
  - (b) for issuing a writ for a new election, or
  - (c) for carrying the determination into execution as the circumstances may require,
 and where the court make a special report, the House of Commons may make such order in respect of that report as they think proper.

#### Modifications etc. (not altering text)

- C63** S. 144 applied (with modifications (E.W.S.)) by [S.I. 1986/2209](#), regs. 2, 3, 5(1)(6)-(8), [Sch. 1 Pt. I](#)
- S. 144 applied (with modifications (N.I.)) by [S.I. 1986/2250](#), regs. 2, 3, 5, [Sch. 1 Pt. I](#)

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- S. 144 applied (with modifications) (N.I.) (4.5.1996) by S.I. 1996/1220, art. 3(1)(5)-(8), **Sch. 1**
- S. 144 applied (with modifications) (11.3.1999) by S.I. 1999/787, art. 85(1)-(3), **Sch. 6 Pts. I, II** (which S.I. was revoked (21.11.2002 except for specified purposes) by S.I. 2002/2779, **arts. 1, 2** (which S.I. was revoked (15.3.2007) by S.I. 2007/937, **art. 2(a)**))
- S. 144 applied (with modifications) (21.11.2002 except for specified purposes) by **The Scottish Parliament (Elections etc.) Order 2002 (S.I. 2002/2779)**, arts. 1, 81, **Sch. 6 Pts. I, II** (which S.I. was revoked (15.3.2007) by S.I. 2007/937, **art. 2(a)**)
- S. 144 applied (with modifications) (15.3.2007 except for specified purposes) by **The Scottish Parliament (Elections etc.) Order 2007 (S.I. 2007/937)**, arts. 1, 83, **Sch. 6 Pts. I, II**
- C64** S. 144 applied (with modifications) (1.8.2001) by S.I. 2001/2599, art. 3, **Sch. 1** (as substituted (10.2.2009) by S.I. 2009/256, arts. 1(2), 3, **Sch. 1**)

## 145 Conclusion of trial of local election petition.

- (1) At the conclusion of the trial of a petition questioning an election under the local government Act, the election court shall determine whether the person whose election is complained of, or any and what other person, was duly elected, or whether the election was void, and the determination so certified shall be final to all intents as to the matters at issue on the petition.

[<sup>F34</sup>(1A) In the application of subsection (1) above in relation to an election of the London members of the London Assembly at an ordinary election, for the words from “shall determine” to “void,” there shall be substituted “shall determine whether—

- (a) the person or persons whose return is complained of were duly returned,
- (b) some other person or persons should have been declared to be returned, or
- (c) the election was void, ”.]

- (2) The election court shall forthwith certify in writing the determination to the High Court.
- (3) Where a charge is made in the petition of any corrupt or illegal practice having been committed at the election the court shall, in addition to giving a certificate, and at the same time, make a report in writing to the High Court as required by sections 158 and 160 below and also stating whether any corrupt practices have, or whether there is reason to believe that any corrupt practices have, extensively prevailed at the election in the area of the authority for which the election was held or in any electoral area of that authority’s area.
- (4) The election court may at the same time make a special report to the High Court as to matters arising in the course of the trial an account of which in the judgment of the court ought to be submitted to the High Court.
- (5) A copy of any certificate or report made to the High Court shall be sent by the High Court to the Secretary of State.
- (6) The High Court shall by the signatures of two or more of its judges certify a copy of the certificate mentioned in subsection (5) above to the proper officer of the authority for which the election was held.
- (7) The foregoing provisions of this section, except subsection (1) above, do not apply to Scotland, but where in a petition questioning an election of councillors in Scotland a charge is made of any corrupt or illegal practice having been committed at the election, the court—
- (a) shall determine the matters mentioned in sections 158 and 160 below; and

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- (b) shall also determine whether any corrupt practices have, or whether there is reason to believe that any corrupt practices have, extensively prevailed at the election and whether illegal practices, payments, employments or hirings committed in reference to the election for the purpose of promoting the election of a candidate at the election have or have not so extensively prevailed that they may be reasonably supposed to have affected the result of the election.

#### Textual Amendments

**F34** S. 145(1A) inserted (14.12.1999) by 1999 c. 29, s. 17, **Sch. 3 para. 33** (with Sch. 12 para. 9(1)); S.I. 1999/3376, **art. 2**

#### Modifications etc. (not altering text)

- C65** S. 145 applied (with modifications) (2.4.2001) by S.I. 2001/1298, reg. 19(8), **Sch. 6**  
S. 145 applied (with modifications) (W.) (24.3.2004) by The Local Authorities (Conduct of Referendums) (Wales) Regulations 2004 (S.I. 2004/870), reg. 15(8), **Sch. 5** (which S.I. was revoked (24.7.2008) by S.I. 2008/1848)  
S. 145 applied (with modifications) (E.) (28.7.2007) by The Local Authorities (Conduct of Referendums) (England) Regulations 2007 (S.I. 2007/2089), reg. 15, **Sch. 6**
- C66** S. 145 applied (with modifications) (W.) (24.7.2008) by The Local Authorities (Conduct of Referendums) (Wales) Regulations 2008 (S.I. 2008/1848), reg. 11, **Sch. 5**

### [<sup>F35</sup>145A Determination in respect of election of Mayor of London or constituency member of London Assembly.

- (1) This section applies where the election court makes a determination under section 145 above in respect of—
- (a) the election of the Mayor of London, or
  - (b) the election of a constituency member of the London Assembly,
- and the conditions in subsections (2) and (3) below are satisfied.
- (2) The first condition is that the determination of the election court is—
- (a) that the person whose election is complained of was not duly elected; or
  - (b) that the election was void.
- (3) The second condition is that the return of that person at that election was taken into account for the purpose of deciding which persons were to be returned as London members of the London Assembly.
- (4) Where this section applies, the validity of the return of the London members of the London Assembly shall not be affected by—
- (a) the determination of the election court; or
  - (b) in a case falling within subsection (1)(b) above, the subsequent return of a person as the constituency member for the Assembly constituency concerned.]

#### Textual Amendments

**F35** S. 145A inserted (14.12.1999) by 1999 c. 29, s. 17, **Sch. 3 para. 34** (with Sch. 12 para. 9(1)); S.I. 1999/3376, **art. 2**.



*Status: Point in time view as at 03/04/2006.*

*Changes to legislation: Representation of the People Act 1983, Part III is up to date with all changes known to be in force on or before 25 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

## 146 Special case for determination of High Court.

- (1) If, on the application of any party to a petition made in the prescribed manner to the High Court, it appears to the High Court that the case raised by the petition can be conveniently stated as a special case, the High Court may direct it to be stated accordingly and the special case shall be heard before the High Court.
- (2) In the case of a parliamentary election petition, the High Court shall certify to the Speaker its decision on the special case.
- (3) In the case of a petition questioning an election in England and Wales under the local government Act, a statement of the decision on the special case shall be sent by the High Court to the Secretary of State and the High Court shall by the signatures of two or more of its judges also certify that statement to the proper officer of the authority for which the election was held.
- (4) If it appears to the election court on the trial of an election petition that any question of law as to the admissibility of evidence or otherwise requires further consideration by the High Court, the election court may postpone the granting of a certificate until the question has been determined by the High Court, and for this purpose may reserve the question by stating a case for the decision of the High Court.

In the application of this subsection to Northern Ireland the references to the High Court are to the Court of Appeal.

- (5) In Scotland the decision of the Court of Session on a special case under subsection (1) above shall be final and in the case of a petition questioning an election of councillors in Scotland, the application under subsection (1) for a direction for the statement of a case for the Court of Session shall be made to the election court.

### Modifications etc. (not altering text)

- C67** S. 146 applied (with modifications) (E.W.S.) by S.I. 1986/2209, regs. 2, 3, 5(1)(6)-(8), **Sch. 1 Pt. I**  
S. 146 applied (with modifications) (N.I.) by S.I. 1986/2250, regs. 2, 3, 5, **Sch. 1 Pt. I**  
S. 146 applied (with modifications) (N.I.) (4.5.1996) by S.I. 1996/1220, art. 3(1)(5)-(8), **Sch. 1**  
S. 146 applied (with modifications) (11.3.1999) by S.I. 1999/787, art. 85(1)-(3), **Sch. 6 Pts. I, II** (which S.I. was revoked (21.11.2002 except for specified purposes) by S.I. 2002/2779, **arts. 1, 2** (which S.I. was revoked (15.3.2007) by S.I. 2007/937, **art. 2(a)**))  
S. 146 applied (with modifications) (2.4.2001) by S.I. 2001/1298, reg. 19(8), **Sch. 6**  
S. 146 applied (with modifications) (21.11.2002 except for specified purposes) by **The Scottish Parliament (Elections etc.) Order 2002** (S.I. 2002/2779), arts. 1, 81, **Sch. 6 Pt. I** (which S.I. was revoked (15.3.2007) by S.I. 2007/937, art. 2(a))  
S. 146 applied (with modifications) (W.) (24.3.2004) by **The Local Authorities (Conduct of Referendums) (Wales) Regulations 2004** (S.I. 2004/870), reg. 15(8), **Sch. 5** (which S.I. was revoked (24.7.2008) by S.I. 2008/1848)  
S. 146 applied (with modifications) (15.3.2007 except for specified purposes) by **The Scottish Parliament (Elections etc.) Order 2007** (S.I. 2007/937), arts. 1, 83, **Sch. 6 Pt. I**
- C68** S. 146 applied (with modifications) (E.) (28.7.2007) by **The Local Authorities (Conduct of Referendums) (England) Regulations 2007** (S.I. 2007/2089), reg. 15, **Sch. 6**
- C69** S. 146 applied (with modifications) (W.) (24.7.2008) by **The Local Authorities (Conduct of Referendums) (Wales) Regulations 2008** (S.I. 2008/1848), reg. 11, **Sch. 5**
- C70** S. 146 applied (with modifications) (1.8.2001) by S.I. 2001/2599, art. 3, **Sch. 1** (as substituted (10.2.2009) by S.I. 2009/256, arts. 1(2), 3, **Sch. 1**)

*Status: Point in time view as at 03/04/2006.*

*Changes to legislation: Representation of the People Act 1983, Part III is up to date with all changes known to be in force on or before 25 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

## 147 Withdrawal of petition.

- (1) A petitioner shall not withdraw an election petition without the leave of the election court or High Court on special application, made in the prescribed manner and at the prescribed time and place.

In the application of this subsection to a petition questioning an election of councillors in Scotland there shall be omitted the reference to the High Court.

- (2) The application shall not be made until the prescribed notice of the intention to make it has been given in the constituency or local government area to which the petition relates.
- (3) Where there are more petitioners than one, the application shall not be made except with the consent of all the petitioners.
- (4) If a petition is withdrawn the petitioner shall be liable to pay the costs of the respondent.

### Modifications etc. (not altering text)

- C71** S. 147 applied (E.W.S.) by S.I. 1986/2209, regs. 2, 3, 5(1)(6)-(8), **Sch. 1 Pt. I**  
S. 147 applied (N.I.) by S.I. 1986/2250, regs. 2, 3, 5, **Sch. 1 Pt. I**  
S. 147 applied (E.) (28.7.2007) by [The Local Authorities \(Conduct of Referendums\) \(England\) Regulations 2007](#) (S.I. 2007/2089), reg. 15, **Sch. 6**
- C72** S. 147 applied (with modifications) (N.I.) (4.5.1996) by S.I. 1996/1220, art. 3(1)(b)(5)-(8), **Sch. 1**  
S. 147 applied (with modifications) (11.3.1999) by S.I. 1999/787, art. 85(1)-(3), **Sch. 6 Pts. I, II** (which S.I. was revoked (21.11.2002 except for specified purposes) by S.I. 2002/2779, **arts. 1, 2** (which S.I. was revoked (15.3.2007) by S.I. 2007/937, **art. 2(a)**))  
S. 147 applied (with modifications) (2.4.2001) by S.I. 2001/1298, reg. 19(8), **Sch. 6**  
S. 147 applied (with modifications) (21.11.2002 except for specified purposes) by [The Scottish Parliament \(Elections etc.\) Order 2002](#) (S.I. 2002/2779), arts. 1, 81, **Sch. 6 Pt. I** (which S.I. was revoked (15.3.2007) by S.I. 2007/937, art. 2(a))  
S. 147 applied (W.) (24.3.2004) by [The Local Authorities \(Conduct of Referendums\) \(Wales\) Regulations 2004](#) (S.I. 2004/870), reg. 15(8), **Sch. 5** (which S.I. was revoked (24.7.2008) by S.I. 2008/1848)  
S. 147 applied (with modifications) (15.3.2007 except for specified purposes) by [The Scottish Parliament \(Elections etc.\) Order 2007](#) (S.I. 2007/937), arts. 1, 83, **Sch. 6 Pt. I**
- C73** S. 147 applied (W.) (24.7.2008) by [The Local Authorities \(Conduct of Referendums\) \(Wales\) Regulations 2008](#) (S.I. 2008/1848), reg. 11, **Sch. 5**
- C74** S. 147 applied (with modifications) (1.8.2001) by S.I. 2001/2599, art. 3, **Sch. 1** (as substituted (10.2.2009) by S.I. 2009/256, arts. 1(2), 3, **Sch. 1**)

## [<sup>F36</sup>148 Evidence required for withdrawal of petition.

- (1) Before leave for the withdrawal of an election petition is granted, there shall be produced affidavits—
- by all the parties to the petition and their solicitors, and
  - if the election was an election at which candidates are required to have election agents, by the election agents of all of those parties who were candidates at the election.

but the High Court may on cause shown dispense with the affidavit of any particular person if it seems to the court on special grounds just so to do.

*Status: Point in time view as at 03/04/2006.*

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In the application of this subsection to an election of councillors in Scotland, the reference to the High Court is to an election court, but, if the election was a local government election, the sheriff may act instead of the election court.

- (2) Each affidavit shall state that, to the best of the deponent's knowledge and belief—
- (a) no agreement or terms of any kind whatsoever has or have been made, and
  - (b) no undertaking has been entered into, in relation to the withdrawal of the petition,
- but if any lawful agreement has been made with respect to the withdrawal of the petition, the affidavit shall set forth that agreement and shall make the foregoing statement subject to what appears from the affidavit.
- (3) The affidavits of the applicant and his solicitor shall further state the ground on which the petition is sought to be withdrawn.
- (4) Copies of those affidavits shall be delivered to the Director of Public Prosecutions a reasonable time before the application for the withdrawal is heard, and the court—
- (a) may hear the Director of Public Prosecutions or his assistant or other representative<sup>F37</sup> . . . in opposition to the allowance of the withdrawal of the petition; and
  - (b) shall have power to receive the evidence on oath of any person or persons whose evidence the Director of Public Prosecutions or his assistant, or other representative, may consider material.

In the application of this subsection to an election of councillors in Scotland the references to the Director of Public Prosecutions include references to the procuratorfiscal.

- (5) Where more than one solicitor is concerned for the petitioner or respondent, whether as agent for another solicitor or otherwise, the affidavit shall be made by all such solicitors.
- (6) Except in Scotland, the jurisdiction vested by subsection (1) above in the High Court in matters relating to parliamentary elections shall, subject to rules of court, be exercised—
- (a) by one of the judges for the time being on the rota for the trial of parliamentary election petitions,
  - (b) in Northern Ireland, by one of the judges of the High Court or the Court of Appeal for the time being selected under section 108 of the<sup>M1</sup> Judicature (Northern Ireland) Act 1978,

sitting either in court or at chambers, or may be exercised by a master of the Supreme Court in manner directed by and subject to appeal to those judges.]

#### Textual Amendments

- F36** S. 148 repealed in part (16.2.2001) by 2000 c. 41, ss. 137, 158(2), Sch. 17 para. 5(1)(2), Sch. 22, (with ss. 156(6), 158(3)); S.I. 2001/222, art. 2, Sch. 1 Pt. 1, Annex (with Sch. 1 Pt. II)
- F37** Words repealed by Representation of the People Act 1985 (c. 50, SIF 42), s. 28, Sch. 5

#### Modifications etc. (not altering text)

- C75** S. 148 applied (N.I.) by S.I. 1986/2250, regs. 2, 3, 5, Sch. 1 Pt. I
- C76** S. 148 applied (E.W.S.) by S.I. 1986/2209, regs. 2, 3, 5(1)(6)–(8), Sch. 1 Pt. I
- C77** S. 148 applied (with modifications) (11.3.1999) by S.I. 1999/787, art. 85(1)(3), Sch. 6 Pt. I

*Status: Point in time view as at 03/04/2006.*

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**C78** S. 148 applied (with modifications) (N.I.) (4.5.1996) by S.I. 1996/1220, art. 3(1)(b)(5)-(8), **Sch. 1**

#### Marginal Citations

**M1** 1978 c. 23.

### [<sup>F38</sup>149 Penalty for corrupt withdrawal and breach of s. 148.

If a person makes any agreement or terms, or enters into any undertaking, in relation to the withdrawal of an election petition, and such agreement, terms or undertaking—

- (a) is or are for the withdrawal of the election petition in consideration of any payment, or in consideration that the seat or office should at any time be vacated, or in consideration of the withdrawal of any other election petition, or
- (b) is or are (whether lawful or unlawful) not mentioned in the affidavits referred to in section 148 above,

he shall be [<sup>F39</sup>liable—

- (i) on conviction on indictment, to imprisonment for a term not exceeding one year, or to a fine, or to both;
- (ii) on summary conviction, to imprisonment for a term not exceeding 6 months, or to a fine not exceeding the statutory maximum, or to both].]

#### Textual Amendments

**F38** S. 149 repealed in part (16.2.2001) by 2000 c. 41, ss. 137, 158(2), Sch. 17 para. 5(1)(2), **Sch. 22** (with ss. 156(6), 158(3)); S.I. 2001/222, art. 2, **Sch. 1 Pt. 1**, Annex (with Sch. 1 Pt. II)

**F39** Words substituted by Representation of the People Act 1985 (c. 50, SIF 42), s. 23, **Sch. 3 para. 7**

#### Modifications etc. (not altering text)

**C79** S. 149 applied (N.I.) by S.I. 1986/2250, regs. 2, 3, 5, **Sch. 1 Pt. I**

**C80** S. 149 applied (E.W.S.) by S.I. 1986/2209, regs. 2, 3, 5(1)(6)–(8), **Sch. 1 Pt. I**

**C81** S. 149 applied (with modifications) (11.3.1999) by S.I. 1999/787, art. 85(1)(3), **Sch. 6 Pt. I**

**C82** S. 149 applied (with modifications) (N.I.) (4.5.1996) by S.I. 1996/1220, art. 3(1)(b)(5)-(8), **Sch. 1**

### [<sup>F40</sup>150 Substitution of new petitioner.

- (1) On the hearing of the application for leave to withdraw, any person who might have been a petitioner in respect of the election may apply to the court to be substituted as a petitioner, and the court may, if they think fit, substitute him accordingly.
- (2) If the proposed withdrawal is in the opinion of the court the result of any agreement, terms or undertaking prohibited by section 149 above or induced by any corrupt bargain or consideration, the court may by order direct—
  - (a) that the security given on behalf of the original petitioner shall remain as security for any costs that may be incurred by the substituted petitioner, and
  - (b) that, to the extent of the sum named in the security, the original petitioner and his sureties shall be liable to pay the costs of the substituted petitioner.
- (3) If the court does not so direct, then security to the same amount as would be required in the case of a new petition, and subject to the like conditions, shall be given on behalf of the substituted petitioner before he proceeds with his petition and within the prescribed time after the order of substitution.

*Status: Point in time view as at 03/04/2006.*

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- (4) Subject to the above provisions, a substituted petitioner shall, as nearly as may be, stand in the same position and be subject to the same liabilities as the original petitioner.]

#### Textual Amendments

**F40** S. 150 repealed in part (16.2.2001) by 2000 c. 41, ss. 137, 158(2), Sch. 17 para. 5(1)(2), Sch. 22 (with ss. 156(6), 158(3)); S.I. 2001/222, art. 2, Sch. 1 Pt. 1, Annex (with Sch. 1 Pt. II)

#### Modifications etc. (not altering text)

**C83** S. 150 applied (N.I.) by S.I. 1986/2250, regs. 2, 3, 5, Sch. 1 Pt. I

**C84** S. 150 applied (E.W.S.) by S.I. 1986/2209, regs. 2, 3, 5(1)(6)–(8), Sch. 1 Pt. I

**C85** S. 150 applied (11.3.1999) by S.I. 1999/787 art. 85(1)(3), Sch. 6 Pt. I

**C86** S. 150 applied (with modifications) (N.I.) (4.5.1996) by S.I. 1996/1220, art. 3(1)(b)(5)–(8), Sch. 1

### [<sup>F41</sup>151 Report on withdrawal.

- (1) In every case of the withdrawal—
- of a parliamentary election petition, the court giving leave for the withdrawal shall make a report to the Speaker as required by subsection (2) below; and
  - by leave of the election court, of a petition questioning an election in England and Wales under the local government Act, that court shall make a report in writing to the High Court as so required.
- (2) The report shall state whether in the court's opinion the withdrawal of the petition was—
- the result of any agreement, terms or undertaking, or
  - in consideration of any payment, or in consideration that the seat or office should at any time be vacated or in consideration of the withdrawal of any other election petition or for any other consideration,
- and, if so, shall state the circumstances attending the withdrawal.]

#### Textual Amendments

**F41** S. 151 repealed in part (16.2.2001) by 2000 c. 41, ss. 137, 158(2), Sch. 17 para. 5(1)(2), Sch. 22 (with ss. 156(6), 158(3)); S.I. 2001/222, art. 2, Sch. 1 Pt. 1, Annex (with Sch. 1 Pt. II)

#### Modifications etc. (not altering text)

**C87** S. 151 applied with modifications (N.I.) by S.I. 1986/2250, regs. 2, 3, 5, Sch. 1 Pt. I

**C88** S. 151 applied with modifications (E.W.S.) by S.I. 1986/2209, regs. 2, 3, 5(1)(6)–(8), Sch. 1 Pt. I

**C89** S. 151 applied (with modifications) (11.3.1999) by S.I. 1999/787, art. 85(1)(3), Sch. 6 Pt. I

**C90** S. 151 applied (with modifications) (N.I.) (4.5.1996) by S.I. 1996/1220, art. 3(1)(5)–(8), Sch. 1

### [<sup>F42</sup>152 Abatement of petition.

- (1) An election petition shall be abated by the death of a sole petitioner or of the survivor of several petitioners.
- (2) the abatement shall not affect the liability of the petitioner or any other person to the payment of costs previously incurred.

*Status: Point in time view as at 03/04/2006.*

*Changes to legislation: Representation of the People Act 1983, Part III is up to date with all changes known to be in force on or before 25 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

- (3) On the abatement the prescribed notice of it shall be given in the constituency or local government area to which the petition relates; and within the prescribed time after the notice is given, any person who might have been a petitioner in respect of the election may apply to the election court or High Court in the prescribed manner and in the prescribed time and place to be substituted as a petitioner; and the court may, if it thinks fit, substitute him accordingly.
- (4) Security shall be given on behalf of a petitioner so substituted, as in the case of a new petition.
- (5) In the application of this section to an election of councillors in Scotland the reference in subsection (3) above to the High Court shall be omitted, and the sheriff may act instead of the election court.]

#### Textual Amendments

**F42** S. 152 repealed in part (16.2.2001) by 2000 c. 41, ss. 137, 158(2), Sch. 17 para. 5(1)(2), Sch. 22 (with ss. 156(6), 158(3)); S.I. 2001/222, art. 2, Sch. 1 Pt. 1, Annex (with Sch. 1 Pt. II)

#### Modifications etc. (not altering text)

**C91** S. 152 applied (N.I.) by S.I. 1986/2250, regs. 2, 3, 5, Sch. 1 Pt. I

**C92** S. 152 applied (E.W.S.) by S.I. 1986/2209, regs. 2, 3, 5(1)(6)–(8), Sch. 1 Pt. I

**C93** S. 152 applied (with modifications) (11.3.1999) by S.I. 1999/787, art. 85(1)–(3), Sch. 6 Pts. I II

**C94** S. 152 applied (with modifications) (N.I.) (4.5.1996) by S.I. 1996/1220, art. 3(1)(b)(5)–(8), Sch. 1

#### [<sup>F43</sup>153] **Withdrawal and substitution of respondents before trial.**

- (1) If before the trial of an election petition a respondent other than a returning officer—
  - (a) gives the prescribed notice that he does not intend to oppose the petition or dies, or
  - (b) where the petition questions a parliamentary election or return, is summoned to Parliament as a peer by a writ issued under the Great Seal of the United Kingdom or the House of Commons have resolved that his seat is vacant, or
  - (c) where the petition questions an election under the local government Act, resigns or otherwise ceases to hold the office to which the petition relates,
 notice of any of those matters shall be given in the constituency or local government area to which the petition relates, and, within the prescribed time after the notice is given, any person who might have been a petitioner in respect of the election may apply to a member of the election court or to the High Court to be admitted as a respondent to oppose the petition, and shall be admitted accordingly, except that the number of persons so admitted shall not exceed three.
- (2) The notice to be given under subsection (1) above in any local government area shall be such as may be prescribed.
- (3) A respondent who has given the prescribed notice that he does not intend to oppose the petition shall not be allowed to appear or act as a party against the petition in any proceedings on the petition, and if the petition relates to a parliamentary election he shall not sit or vote in the House of Commons until the House of Commons has been informed of the report on the petition.

*Status: Point in time view as at 03/04/2006.*

*Changes to legislation: Representation of the People Act 1983, Part III is up to date with all changes known to be in force on or before 25 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

- (4) Where a respondent to a parliamentary election petition has given that notice in the prescribed time and manner, the High Court or either of the judges constituting the election court shall report that fact to the Speaker.
- (5) In the application of this section to an election of councillors in Scotland, the reference to the High Court shall be omitted and the sheriff may act instead of the election court.]

#### Textual Amendments

**F43** S. 153 repealed in part (16.2.2001) by 2000 c. 41, ss. 137, 158(2), Sch. 17 para. 5(1)(2), Sch. 22 (with ss. 156(6), 158(3)); S.I. 2001/222, art. 2, Sch. 1 Pt. 1, Annex (with Sch. 1 Pt. II)

#### Modifications etc. (not altering text)

**C95** S. 153 applied with modifications (N.I.) by S.I. 1986/2250, regs. 2, 3, 5, Sch. 1 Pt. 1

**C96** S. 153 applied with modifications (E.W.S.) by S.I. 1986/2209, regs. 2, 3, 5(1)(6)–(8), Sch. 1 Pt. 1

**C97** S. 153 applied (with modifications) (11.3.1999) by S.I. 1999/787, art. 85(1)(3), Sch. 6 Pt. 1

**C98** S. 153 applied (with modifications) (N.I.) (4.5.1996) by S.I. 1996/1220, art. 3(1)(5)–(8), Sch. 1

## 154 Costs of petition.

- (1) All costs of and incidental to the presentation of an election petition and the proceedings consequent on it, except such as are by this Act otherwise provided for, shall be defrayed by the parties to the petition in such manner and in such proportions as the election court or High Court may determine.
- (2) In particular—
  - (a) any costs which in the opinion of the election court or High Court have been caused by vexatious conduct, unfounded allegations or unfounded objections on the part either of the petitioner or of the respondent, and
  - (b) any needless expense incurred or caused on the part of the petitioner or respondent,may be ordered to be defrayed by the parties by whom it has been incurred or caused whether or not they are on the whole successful.
- (3) In the application of this section to Scotland, references to the High Court shall be omitted in relation to an election of councillors.

#### Modifications etc. (not altering text)

**C99** S. 154 applied (E.W.S.) by S.I. 1986/2209, regs. 2, 3, 5(1)(6)–(8), Sch. 1 Pt. 1

S. 154 applied (N.I.) by S.I. 1986/2250, regs. 2, 3, 5, Sch. 1 Pt. 1

S. 154 applied (E.) (28.7.2007) by The Local Authorities (Conduct of Referendums) (England) Regulations 2007 (S.I. 2007/2089), reg. 15, Sch. 6

**C100** S. 154 applied (with modifications) (N.I.) (4.5.1996) by S.I. 1996/1220, art. 3(1)(b)(5)–(8), Sch. 1

S. 154 applied (with modifications) (11.3.1999) by S.I. 1999/787, art. 85(1)–(3), Sch. 6 Pts. I, II (which S.I. was revoked (21.11.2002 except for specified purposes) by S.I. 2002/2779, arts. 1, 2 (which S.I. was revoked (15.3.2007) by S.I. 2007/937, art. 2(a)))

S. 154 applied (with modifications) (2.4.2001) by S.I. 2001/1298, reg. 19(8), Sch. 6

S. 154 applied (with modifications) (21.11.2002 except for specified purposes) by The Scottish Parliament (Elections etc.) Order 2002 (S.I. 2002/2779), arts. 1, 81, Sch. 6 Pts. I, II (which S.I. was revoked (15.3.2007) by S.I. 2007/937, art. 2(a))

*Status: Point in time view as at 03/04/2006.*

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S. 154 applied (W.) (24.3.2004) by [The Local Authorities \(Conduct of Referendums\) \(Wales\) Regulations 2004 \(S.I. 2004/870\)](#), reg. 15(8), [Sch. 5](#) (which S.I. was revoked (24.7.2008) by S.I. 2008/1848)

S. 154 applied (with modifications) (15.3.2007 except for specified purposes) by [The Scottish Parliament \(Elections etc.\) Order 2007 \(S.I. 2007/937\)](#), arts. 1, 83, [Sch. 6 Pts. I, II](#)

**C101** S. 154 applied (W.) (24.7.2008) by [The Local Authorities \(Conduct of Referendums\) \(Wales\) Regulations 2008 \(S.I. 2008/1848\)](#), reg. 11, [Sch. 5](#)

**C102** S. 154 applied (with modifications) (1.8.2001) by [S.I. 2001/2599](#), art. 3, [Sch. 1](#) (as substituted (10.2.2009) by [S.I. 2009/256](#), arts. 1(2), 3, [Sch. 1](#))

## 155 Neglect or refusal to pay costs.

(1) Subsection (2) below applies if a petitioner neglects or refuses—

- (a) in the case of a parliamentary election petition, for six months after demand, and
- (b) in the case of a petition questioning an election under the local government Act, for three months after demand,

to pay to any person summoned as a witness on his behalf or to the respondent any sum certified to be due to that person or the respondent for his costs, and the neglect or refusal is, within one year after the demand, proved to the satisfaction of the High Court, or, in Scotland, the election court.

(2) Where subsection (1) above applies, every person who under this Act entered into a recognisance relating to that petition shall be held to be in default of the recognisance, and—

- (a) the prescribed officer shall thereupon certify the recognisance to be forfeited, and
- (b) it shall be dealt with as if forfeited by the Crown Court, or, in Northern Ireland, under the <sup>M2</sup>Fines Act (Ireland) 1851, as the case may be,

but in Scotland the prescribed officer shall, where otherwise competent under the provisions of this subsection—

- (i) certify that the conditions contained in the bond of caution have not been fulfilled; and
- (ii) it shall then be competent for the party or parties interested to register that bond, and do diligence upon it as accords of law.

### Modifications etc. (not altering text)

**C103** S. 155 applied (E.W.S.) by [S.I. 1986/2209](#), regs. 2, 3, 5(1)(6)-(8), [Sch. 1 Pt. I](#)

S. 155 applied (N.I.) by [S.I. 1986/2250](#), regs. 2, 3, 5, [Sch. 1 Pt. I](#)

S. 155 applied (E.) (28.7.2007) by [The Local Authorities \(Conduct of Referendums\) \(England\) Regulations 2007 \(S.I. 2007/2089\)](#), reg. 15, [Sch. 6](#)

**C104** S. 155 applied (with modifications) (N.I.) (4.5.1996) by [S.I. 1996/1220](#), art. 3(1)(b)(5)-(8), [Sch. 1](#)

S. 155 applied (with modifications) (11.3.1999) by [S.I. 1999/787](#), art. 85(1)-(3), [Sch. 6 Pts. I, II](#) (which S.I. was revoked (21.11.2002 except for specified purposes) by [S.I. 2002/2779](#), [arts. 1, 2](#) (which S.I. was revoked (15.3.2007) by [S.I. 2007/937](#), [art. 2\(a\)](#)))

S. 155 applied (with modifications) (2.4.2001) by [S.I. 2001/1298](#), reg. 19(8), [Sch. 6](#)

S. 155 applied (with modifications) (21.11.2002 except for specified purposes) by [The Scottish Parliament \(Elections etc.\) Order 2002 \(S.I. 2002/2779\)](#), arts. 1, 81, [Sch. 6 Pts. I, II](#) (which S.I. was revoked (15.3.2007) by [S.I. 2007/937](#), [art. 2\(a\)](#))



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S. 155 applied (with modifications) (W.) (24.3.2004) by [The Local Authorities \(Conduct of Referendums\) \(Wales\) Regulations 2004 \(S.I. 2004/870\)](#), reg. 15(8), [Sch. 5](#) (which S.I. was revoked (24.7.2008) by [S.I. 2008/1848](#))

S. 155 applied (with modifications) (15.3.2007 except for specified purposes) by [The Scottish Parliament \(Elections etc.\) Order 2007 \(S.I. 2007/937\)](#), arts. 1, 83, [Sch. 6 Pts. I, II](#)

**C105** S. 155 applied (W.) (24.7.2008) by [The Local Authorities \(Conduct of Referendums\) \(Wales\) Regulations 2008 \(S.I. 2008/1848\)](#), reg. 11, [Sch. 5](#)

**C106** S. 155 applied (with modifications) (1.8.2001) by [S.I. 2001/2599](#), art. 3, [Sch. 1](#) (as substituted (10.2.2009) by [S.I. 2009/256](#), arts. 1(2), 3, [Sch. 1](#))

#### Marginal Citations

**M2** 1851 c. 90.

### 156 Further provision as to costs.

- (1) Where upon the trial of an election petition it appears to the election court—
- (a) that a corrupt practice has not been proved to have been committed in reference to the election by or with the knowledge and consent of the respondent to the petition, and
  - (b) that the respondent took all reasonable means to prevent corrupt practices being committed on his behalf,

[<sup>F44</sup>the court may, subject to the provisions of subsection (5) below, make such order with respect to the whole or part of the costs of the petition as is mentioned in that subsection].

<sup>F45</sup>(2) .....

- (5) If it appears to the court that any person or persons is or are proved, whether by providing money or otherwise, to have been extensively engaged in corrupt practices, or to have encouraged or promoted extensive corrupt practices in reference to the election, the court may, after giving that person or those persons an opportunity of being heard by counsel or solicitor and examining and cross-examining witnesses to show cause why the order should not be made—
- (a) order the whole or part of the costs to be paid by that person, or those persons or any of them, and
  - (b) order that if the costs cannot be recovered from one or more of those persons they shall be paid by some other of those persons or by either of the parties to the petition.
- (6) Where any person appears to the court to have been guilty of a corrupt or illegal practice, the court may, after giving that person an opportunity of making a statement to show why the order should not be made, order the whole or any part of the costs of or incidental to any proceeding before the court in relation to that offence or to that person to be paid by that person to such person or persons as the court may direct.

#### Textual Amendments

**F44** Words substituted by [Representation of the People Act 1985 \(c. 50, SIF 42\)](#), s. 24, [Sch. 4 para. 51\(a\)](#)

**F45** [S. 156\(2\)–\(4\)](#) repealed by [Representation of the People Act 1985 \(c. 50, SIF 42\)](#), ss. 24, 28, [Sch. 4 para. 51\(b\)](#), Sch. 5

*Status: Point in time view as at 03/04/2006.*

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#### **Modifications etc. (not altering text)**

- C107** S. 156 applied (E.W.S.) by S.I. 1986/2209, regs. 2, 3, 5(1)(6)-(8), **Sch. 1 Pt. I**  
S. 156 applied (N.I.) by S.I. 1986/2250, regs. 2, 3, 5, **Sch. 1 Pt. I**  
S. 156 applied (E.) (28.7.2007) by The Local Authorities (Conduct of Referendums) (England) Regulations 2007 (S.I. 2007/2089), reg. 15, **Sch. 6**
- C108** S. 156 applied (with modifications) (N.I.) (4.5.1996) by S.I. 1996/1220, art. 3(1)(b)(5)-(8), **Sch. 1**  
S. 156 applied (with modifications) (11.3.1999) by S.I. 1999/787, art. 85(1)(3), **Sch. 6 Pt. I** (which S.I. was revoked (21.11.2002 except for specified purposes) by S.I. 2002/2779, **arts. 1, 2** (which S.I. was revoked (15.3.2007) by S.I. 2007/937, **art. 2(a)**))  
S. 156 applied (with modifications) (2.4.2001) by S.I. 2001/1298, reg. 19(8), **Sch. 6**  
S. 156 applied (with modifications) (1.8.2001) by S.I. 2001/2599, art. 3, **Sch. 1** (as substituted (10.2.2009) by S.I. 2009/256, **arts. 1(2), 3**, {Sch. 1})  
S. 156 applied (with modifications) (21.11.2002 except for specified purposes) by The Scottish Parliament (Elections etc.) Order 2002 (S.I. 2002/2779), arts. 1, 81, **Sch. 6 Pt. I** (which S.I. was revoked (15.3.2007) by S.I. 2007/937, **art. 2(a)**)  
S. 156 applied (W.) (24.3.2004) by The Local Authorities (Conduct of Referendums) (Wales) Regulations 2004 (S.I. 2004/870), reg. 15(8), **Sch. 5** (which S.I. was revoked (24.7.2008) by S.I. 2008/1848)  
S. 156 applied (with modifications) (15.3.2007 except for specified purposes) by The Scottish Parliament (Elections etc.) Order 2007 (S.I. 2007/937), arts. 1, 83, **Sch. 6 Pt. I**
- C109** S. 156 applied (W.) (24.7.2008) by The Local Authorities (Conduct of Referendums) (Wales) Regulations 2008 (S.I. 2008/1848), reg. 11, **Sch. 5**

## **157 Appeals and jurisdiction.**

- (1) No appeal lies without the special leave of the High Court from the decision of the High Court on any question of law, whether on appeal or otherwise, under the foregoing provisions of this Part of this Act, and if leave to appeal is granted the decision of the Court of Appeal in the case shall be final and conclusive.
- (2) Subject to the provisions of this Act and of the rules made under it, the principles, practice and rules on which committees of the House of Commons used to act in dealing with election petitions shall be observed, so far as may be, by the High Court and election court in the case of election petitions, and in particular the principles and rules with regard to—
  - (a) agency,
  - (b) evidence,
  - (c) a scrutiny, and
  - (d) declaring any person elected in place of any other person declared not to have been duly elected,
 shall be observed, as far as may be, in the case of a petition questioning an election under the local government Act as in the case of a parliamentary election petition.
- (3) The High Court has, subject to the provisions of this Act, the same powers, jurisdiction and authority with respect to an election petition and the proceedings on it as if the petition were an ordinary action within its jurisdiction.
- (4) The duties to be performed in relation to parliamentary elections by the prescribed officer under this Part shall be performed by such one or more of the masters of the Supreme Court (Queen’s Bench Division) as the Lord Chief Justice may determine.

<sup>F46</sup>(5) .....

*Status: Point in time view as at 03/04/2006.*

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- (6) The duties to be performed in relation to elections under the local government Act by the prescribed officer under this Part shall be performed by the prescribed officer of the High Court.
- (7) In the application of this section to Scotland, subsections (1) and (4) to (6) above and, in relation to elections of councillors, subsection (3) above, shall be omitted, but the duties to be performed in relation to parliamentary elections by the prescribed officer under this Part shall be performed by the Principal Clerk of Session.
- (8) Subsection (1) above does not apply in Northern Ireland and, in the application of subsections (4) and (5) to Northern Ireland, the references to the Lord Chief Justice are references to the Lord Chief Justice of Northern Ireland and the reference to any master of the Supreme Court (Queen’s Bench Division) is a reference to an officer of the Supreme Court of Judicature of Northern Ireland.

#### Textual Amendments

**F46** S. 157(5) repealed (16.2.2001) by 2000 c. 41, ss. 137, 158(2), Sch. 17 para. 6, **Sch. 22** (with ss. 156(6), 158(3)); S.I. 2001/222, art. 2, **Sch. 1 Pt. I** (with Sch. 1 Pt. II)

#### Modifications etc. (not altering text)

- C110** S. 157 applied (with modifications) (E.W.S.) by S.I. 1986/2209, regs. 2, 3, 5(1)(6)-(8), **Sch. 1 Pt. I**  
S. 157 applied (with modifications) (N.I.) by S.I. 1986/2250, regs. 2, 3, 5, **Sch. 1 Pt. I**  
S. 157 applied (with modifications) (N.I.) (4.5.1996) by S.I. 1996/1220, art. 3(1)(5)-(8), **Sch. 1**  
S. 157 applied (with modifications) (11.3.1999) by S.I. 1999/787, art. 85(1)-(3), Sch. 6 Pts. I, II (which S.I. was revoked (21.11.2002 except for specified purposes) by S.I. 2002/2779, **arts. 1, 2** (which S.I. was revoked (15.3.2007) by S.I. 2007/937, **art. 2(a)**))  
S. 157 applied (with modifications) (2.4.2001) by S.I. 2001/1298, reg. 19(8), **Sch. 6**  
S. 157 applied (with modifications) (21.11.2002 except for specified purposes) by The Scottish Parliament (Elections etc.) Order 2002 (S.I. 2002/2779), arts. 1, 81, **Sch. 6 Pts. I, II** (which S.I. was revoked (15.3.2007) by S.I. 2007/937, art. 2(a))  
S. 157 applied (with modifications) (W.) (24.3.2004) by The Local Authorities (Conduct of Referendums) (Wales) Regulations 2004 (S.I. 2004/870), reg. 15(8), **Sch. 5** (which S.I. was revoked (24.7.2008) by S.I. 2008/1848)  
S. 157 applied (with modifications) (15.3.2007 except for specified purposes) by The Scottish Parliament (Elections etc.) Order 2007 (S.I. 2007/937), arts. 1, 83, **Sch. 6 Pts. I, II**  
S. 157 applied (with modifications) (E.) (28.7.2007) by The Local Authorities (Conduct of Referendums) (England) Regulations 2007 (S.I. 2007/2089), reg. 15, **Sch. 6**
- C111** S. 157 applied (with modifications) (W.) (24.7.2008) by The Local Authorities (Conduct of Referendums) (Wales) Regulations 2008 (S.I. 2008/1848), reg. 11, **Sch. 5**
- C112** S. 157 applied (with modifications) (1.8.2001) by S.I. 2001/2599, art. 3, Sch. 1 (as substituted (10.2.2009) by S.I. 2009/256, arts. 1(2), 3, **Sch. 1**)

#### *Consequences of finding by election court of corrupt or illegal practice*

#### **158 Report as to candidate guilty of a corrupt or illegal practice.**

- (1) The report of an election court under section 144 or section 145 above shall state whether any corrupt or illegal practice has or has not been proved to have been committed by or with the knowledge and consent of any candidate at the election, and the nature of the corrupt or illegal practice.

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- (2) For the purposes of sections 159 and 160 below—
- (a) if it is reported that a corrupt practice other than treating or undue influence was committed with the knowledge and consent of a candidate, he shall be treated as having been reported personally guilty of that corrupt practice, and
  - (b) if it is reported that an illegal practice was committed with the knowledge and consent of a candidate at a parliamentary election, he shall be treated as having been reported personally guilty of that illegal practice.
- (3) The report shall also state whether any of the candidates has been guilty by his agents of any corrupt or illegal practice in reference to the election; but if a candidate is reported guilty by his agents of treating, undue influence or any illegal practice, and the court further reports that the candidate has proved to the court—
- (a) that no corrupt or illegal practice was committed at the election by the candidate or his election agent and the offences mentioned in the report were committed contrary to the orders and without the sanction or connivance of the candidate or his election agent, and
  - (b) that the candidate and his election agent took all reasonable means for preventing the commission of corrupt and illegal practices at the election, and
  - (c) that the offences mentioned in the report were of a trivial, unimportant and limited character, and
  - (d) that in all other respects the election was free from any corrupt or illegal practice on the part of the candidate and of his agents,

then the candidate shall not be treated for the purposes of section 159 as having been reported guilty by his agents of the offences mentioned in the report.

In relation to an election where candidates are not required to have election agents, for paragraphs (a) and (b) above the following paragraphs shall be substituted—

- “(a) that no corrupt or illegal practice was committed at the election by the candidate or with his knowledge or consent and the offences mentioned in the report were committed without the sanction or connivance of the candidate, and
- (b) that all reasonable means for preventing the commission of corrupt and illegal practices at the election were taken by and on behalf of the candidate.”

#### **Modifications etc. (not altering text)**

**C113** S. 158 applied (E.W.S.) by S.I. 1986/2209, regs. 2, 3, 5(1)(6)-(8), **Sch. 1 Pt. I**

S. 158 applied (N.I.) by S.I. 1986/2250, regs. 2, 3, 5, **Sch. 1 Pt. I**

**C114** S. 158 applied (with modifications) (N.I.) (4.5.1996) by S.I. 1996/1220, art. 3(1)(b)(5)-(8), **Sch. 1**

S. 158 applied (with modifications) (11.3.1999) by S.I. 1999/787, art. 85(1)(3), **Sch. 6 Pt. I** (which S.I. was revoked (21.11.2002 except for specified purposes) by S.I. 2002/2779, **arts. 1, 2** (which S.I. was revoked (15.3.2007) by S.I. 2007/937, **art. 2(a)**))

S. 158 applied (with modifications) (21.11.2002 except for specified purposes) by [The Scottish Parliament \(Elections etc.\) Order 2002](#) (S.I. 2002/2779), **arts. 1, 81, Sch. 6 Pt. I** (which S.I. was revoked (15.3.2007) by S.I. 2007/937, **art. 2(a)**)

S. 158 applied (with modifications) (15.3.2007 except for specified purposes) by [The Scottish Parliament \(Elections etc.\) Order 2007](#) (S.I. 2007/937), **arts. 1, 83, Sch. 6 Pt. I**

**C115** S. 158 applied (with modifications) (1.8.2001) by S.I. 2001/2599, **art. 3, Sch. 1** (as substituted (10.2.2009) by S.I. 2009/256, **arts. 1(2), 3, Sch. 1**)

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## 159 Candidate reported guilty of corrupt or illegal practice.

(1) If a candidate who had been elected is reported by an election court personally guilty or guilty by his agents of any corrupt or illegal practice his election shall be void.

<sup>F47</sup>(2) . . . . .

[<sup>F48</sup>(3) A candidate at a local government election in Scotland who is reported personally guilty or guilty by his agents of any corrupt or illegal practice shall also be incapable from the date of the report of holding the office of councillor of any local authority in Scotland—

- (a) for ten years, if reported personally guilty of a corrupt practice,
- (b) for three years, if reported guilty by his agents of a corrupt practice, or
- (c) during the period for which the candidate was elected to serve or for which if elected he might have served, if reported personally guilty or guilty by his agents of an illegal practice,

and if at the date of the report he holds any such office, then the office shall be vacated as from that date.]

(4) The provisions of this section as to the consequences of the report that a candidate was guilty by his agents of a corrupt or illegal practice have effect subject to the express provisions of this Act relating to particular acts which are declared to be corrupt or illegal practices.

### Textual Amendments

**F47** S. 159(2) repealed (16.2.2001) by 2000 c. 41, ss. 137, 158(2), Sch. 17 para. 7(a), **Sch. 22** (with ss. 156(6), 158(3)); S.I. 2001/222, art. 2, **Sch. 1 Pt. 1**, Annex (with Sch. 1 Pt. II para. 6)

**F48** S. 159(3) substituted (16.2.2001) by 2000 c. 41, s. 137, **Sch. 17 para. 7(b)**, (with s. 156(6)); S.I. 2001/222, art. 2, **Sch. 1 Pt. I** (with Sch. 1 Pt. II para. 6)

### Modifications etc. (not altering text)

**C116** S. 159 applied (with modifications) (E.W.S.) by S.I. 1986/2209, regs. 2, 3, 5(1)(6)-(8), **Sch. 1 Pt. I**  
S. 159 applied (with modifications) (N.I.) by S.I. 1986/2250, regs. 2, 3, 5, **Sch. 1 Pt. I**

S. 159 applied (with modifications) (N.I.) (4.5.1996) by S.I. 1996/1220, art. 3(1)(5)-(8), **Sch. 1**

S. 159 applied (with modifications) (11.3.1999) by S.I. 1999/787, art. 85(1)(3), **Sch. 6 Pt. I** (which S.I. was revoked (21.11.2002 except for specified purposes) by S.I. 2002/2779, arts. 1, 2 (which S.I. was revoked (15.3.2007) by S.I. 2007/937, art. 2(a)))

S. 159 applied (with modifications) (21.11.2002 except for specified purposes) by [The Scottish Parliament \(Elections etc.\) Order 2002](#) (S.I. 2002/2779), arts. 1, 81, **Sch. 6 Pt. I** (which S.I. was revoked (15.3.2007) by S.I. 2007/937, art. 2(a))

S. 159 applied (with modifications) (15.3.2007 except for specified purposes) by [The Scottish Parliament \(Elections etc.\) Order 2007](#) (S.I. 2007/937), arts. 1, 83, **Sch. 6 Pt. I**

**C117** S. 159 applied (with modifications) (1.8.2001) by S.I. 2001/2599, art. 3, **Sch. 1** (as substituted (10.2.2009) by S.I. 2009/256, arts. 1(2), 3, **Sch. 1**)

## 160 Persons reported personally guilty of corrupt or illegal practices.

(1) The report of the election court under section 144 or section 145 above shall state the names of all persons (if any) who have been proved at the trial to have been guilty of any corrupt or illegal practice <sup>F49</sup>. . . , but in the case of someone—

- (a) who is not a party to the petition, or

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(b) who is not a candidate on behalf of whom the seat or office is claimed by the petition,

the election court shall first cause notice to be given to him, and if he appears in pursuance of the notice shall give him an opportunity of being heard by himself and of calling evidence in his defence to show why he should not be so reported.

<sup>F50</sup>(2) .....

[<sup>F51</sup>(3) The report shall be laid before the Director of Public Prosecutions.]

[<sup>F52</sup>(4) Subject to the provisions of subsection (4A) and section 174 below, a candidate or other person reported by an election court personally guilty of a corrupt or illegal practice—

(a) shall during the relevant period specified in subsection (5) below be incapable of—

(i) being registered as an elector or voting at any parliamentary election in the United Kingdom or at any local government election in Great Britain,

(ii) being elected to the House of Commons, or

(iii) holding any elective office; and

(b) if already elected to a seat in the House of Commons, or holding any such office, shall vacate the seat or office as from the date of the report.

(4A) The incapacity imposed by subsection (4)(a)(i) above applies only to a candidate or other person reported personally guilty of a corrupt practice under section 60 above or of an illegal practice under section 61 above.

(5) For the purposes of subsection (4) above the relevant period is the period beginning with the date of the report and ending—

(a) in the case of a person reported personally guilty of a corrupt practice, five years after that date, or

(b) in the case of a person reported personally guilty of an illegal practice, three years after that date.

(5A) Subject to the provisions of section 174 but in addition to any incapacity arising by virtue of subsection (4) above, a candidate or other person reported by an election court personally guilty of a corrupt practice—

(a) shall for the period of five years beginning with the date of the report, be incapable of holding any public or judicial office in Scotland, and

(b) if already holding such an office, shall vacate it as from that date.]

(6) Without prejudice to the generality of the provisions of section 205(2) below, nothing in subsection (4) or subsection (5) above affects matters relating to the Northern Ireland Assembly or local elections or holding office in Northern Ireland.

(7) The provisions of this section as to the consequences of the report that a candidate was guilty by his agents of a corrupt or illegal practice have effect subject to the express provisions of this Act relating to particular acts which are declared to be corrupt or illegal practices.

#### Textual Amendments

**F49** Words repealed by [Representation of the People Act 1985 \(c. 50, SIF 42\)](#), s. 28, [Sch. 5](#)

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- F50** S. 160(2) repealed by Representation of the People Act 1985 (c. 50, SIF 42), ss. 24, 28, Sch. 4 para. 52(a), **Sch. 5**
- F51** S. 160(3) substituted by Representation of the People Act 1985 (c. 50, SIF 42), s. 24, **Sch. 4 para. 52(b)**
- F52** Ss. 160(4)-(5A) substituted (16.2.2001) for s. 160(4)(5) by 2000 c. 41, s. 137, **Sch. 17 para. 8**, (with s. 156(6)); S.I. 2001/222, art. 2, **Sch. 1 Pt. I** (with Sch. 1 Pt. II para. 6)

#### Modifications etc. (not altering text)

- C118** S. 160 applied (with modifications) (E.W.S.) by S.I. 1986/2209, regs. 2, 3, 5(1)(6)-(8), **Sch. 1 Pt. I**  
S. 160 applied (with modifications) (N.I.) by S.I. 1986/2250, regs. 2, 3, 5, **Sch. 1 Pt. I**  
S. 160 applied (with modifications) (N.I.) (4.5.1996) by S.I. 1996/1220, art. 3(1)(5)-(8), **Sch. 1**  
S. 160 applied (with modifications) (11.3.1999) by S.I. 1999/787, art. 85(1)-(3), Sch. 6 Pts. I, II (which S.I. was revoked (21.11.2002 except for specified purposes) by S.I. 2002/2779, **arts. 1, 2** (which S.I. was revoked (15.3.2007) by S.I. 2007/937, **art. 2(a)**))  
S. 160 applied (with modifications) (1.8.2001) by S.I. 2001/2599, art. 3(1), **Sch. 1**  
S. 160 applied (with modifications) (21.11.2002 except for specified purposes) by The Scottish Parliament (Elections etc.) Order 2002 (S.I. 2002/2779), arts. 1, 81, **Sch. 6 Pts. I, II** (which S.I. was revoked (15.3.2007) by S.I. 2007/937, art. 2(a))
- C119** S. 160(1)(3) applied (with modifications) (2.4.2001) by S.I. 2001/1298, reg. 19(8), **Sch. 6**  
S. 160(1)(3) applied (with modifications) (W.) (24.3.2004) by The Local Authorities (Conduct of Referendums) (Wales) Regulations 2004 (S.I. 2004/870), reg. 15(8), **Sch. 5** (which S.I. was revoked (24.7.2008) by S.I. 2008/1848)
- C120** S. 160(4)(5)(7) applied (with modifications) (31.7.1997) by 1997 c. 61, s. 3, **Sch. 3 para. 13** Table 1

### *Director of Public Prosecutions' duty to report corrupt practice*

## 161 Justice of the Peace.

Where a justice of the peace is reported by an election court to have been guilty of any corrupt practice in reference to an election, <sup>F53</sup> . . . [<sup>F54</sup>the court shall] report the case to the Lord Chancellor [<sup>F55</sup>and the Lord Chief Justice][<sup>F56</sup>or, in the case of a justice of the peace for any area in Scotland, [<sup>F57</sup>to] the Secretary of State] with such evidence as may have been given of the corrupt practice.

#### Textual Amendments

- F53** Words repealed by Representation of the People Act 1985 (c. 50, SIF 42), s. 28, **Sch. 5**
- F54** Words substituted by Representation of the People Act 1985 (c. 50, SIF 42), s. 24, **Sch. 4 para. 53(a)**
- F55** Words in s. 161 inserted (3.4.2006) by Constitutional Reform Act 2005 (c. 4), ss. 15, 148, **Sch. 4 para. 149(a)**; S.I. 2006/1014, **art. 2(a)**, Sch. 1 para. 10, 11(q)
- F56** Words inserted by Representation of the People Act 1985 (c. 50, SIF 42), s. 24, **Sch. 4 para. 53(b)**
- F57** Word in s. 161 inserted (3.4.2006) by Constitutional Reform Act 2005 (c. 4), ss. 15, 148, **Sch. 4 para. 149(b)**; S.I. 2006/1014, **art. 2(a)**, Sch. 1 para. 10, 11(q)

#### Modifications etc. (not altering text)

- C121** S. 161 applied (E.W.S.) by S.I. 1986/2209, regs. 2, 3, 5(1)(6)-(8), **Sch. 1 Pt. I**  
S. 161 applied (N.I.) by S.I. 1986/2250, regs. 2, 3, 5, **Sch. 1 Pt. I**
- C122** S. 161 applied (with modifications) (11.3.1999) by S.I. 1999/787, art. 85(1)(3), **Sch. 6 Pt. I** (which S.I. was revoked (21.11.2002 except for specified purposes) by S.I. 2002/2779, **arts. 1, 2** (which S.I. was revoked (15.3.2007) by S.I. 2007/937, **art. 2(a)**))  
S. 161 applied (with modifications) (2.4.2001) by S.I. 2001/1298, reg. 19(8), **Sch. 6**

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*Changes to legislation: Representation of the People Act 1983, Part III is up to date with all changes known to be in force on or before 25 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

- S. 161 applied (with modifications) (21.11.2002 except for specified purposes) by [The Scottish Parliament \(Elections etc.\) Order 2002 \(S.I. 2002/2779\)](#), arts. 1, 81, **Sch. 6 Pt. I** (which S.I. was revoked (15.3.2007) by [S.I. 2007/937](#), art. 2(a))
- S. 161 applied (W.) (24.3.2004) by [The Local Authorities \(Conduct of Referendums\) \(Wales\) Regulations 2004 \(S.I. 2004/870\)](#), reg. 15(8), **Sch. 5** (which S.I. was revoked (24.7.2008) by [S.I. 2008/1848](#))
- S. 161 applied (with modifications) (15.3.2007 except for specified purposes) by [The Scottish Parliament \(Elections etc.\) Order 2007 \(S.I. 2007/937\)](#), arts. 1, 83, **Sch. 6 Pt. I**
- C123** S. 161 applied (E.) (28.7.2007) by [The Local Authorities \(Conduct of Referendums\) \(England\) Regulations 2007 \(S.I. 2007/2089\)](#), reg. 15, **Sch. 6**
- C124** S. 161 applied (W.) (24.7.2008) by [The Local Authorities \(Conduct of Referendums\) \(Wales\) Regulations 2008 \(S.I. 2008/1848\)](#), reg. 11, **Sch. 5**
- C125** S. 161 applied (with modifications) (1.8.2001) by [S.I. 2001/2599](#), art. 3, **Sch. 1** (as substituted (10.2.2009) by [S.I. 2009/256](#), arts. 1(2), 3, **Sch. 1**)

## 162 Member of legal and certain other professions.

Where a barrister, advocate, solicitor or any person who belongs to any profession the admission to which is regulated by law is reported by an election court to have been guilty of any corrupt practice in reference to an election,<sup>F58</sup> . . . —

- (a) [<sup>F59</sup>the court shall] bring the matter before the Inn of Court [<sup>F60</sup>Faculty of Advocates], High Court or tribunal having power to take cognizance of any misconduct of the person in his profession; and
- (b) the Inn of Court [<sup>F60</sup>Faculty of Advocates], High Court or tribunal may deal with him as if the corrupt practice were misconduct by him in his profession.

### Textual Amendments

- F58** Words repealed by [Representation of the People Act 1985 \(c. 50, SIF 42\)](#), s. 28, **Sch. 5**
- F59** Words substituted by [Representation of the People Act 1985 \(c. 50, SIF 42\)](#), s. 24, **Sch. 4 para. 54(a)**
- F60** Words inserted by [Representation of the People Act 1985 \(c. 50, SIF 42\)](#), s. 24, **Sch. 4 para. 54(b)**

### Modifications etc. (not altering text)

- C126** S. 162 applied (E.W.S.) by [S.I. 1986/2209](#), regs. 2, 3, 5(1)(6)-(8), **Sch. 1 Pt. I**
- S. 162 applied (N.I.) by [S.I. 1986/2250](#), regs. 2, 3, 5, **Sch. 1 Pt. I**
- S. 162 applied (E.) (28.7.2007) by [The Local Authorities \(Conduct of Referendums\) \(England\) Regulations 2007 \(S.I. 2007/2089\)](#), reg. 15, **Sch. 16**
- C127** S. 162 applied (with modifications) (11.3.1999) by [S.I. 1999/787](#), art. 85(1)(3), **Sch. 6 Pt. I** (which S.I. was revoked (21.11.2002 except for specified purposes) by [S.I. 2002/2779](#), arts. 1, 2)
- S. 162 applied (with modifications) (2.4.2001) by [S.I. 2001/1298](#), reg. 19(8), **Sch. 6**
- S. 162 applied (with modifications) (1.8.2001) by [S.I. 2001/2599](#), art. 3, **Sch. 1** (as substituted (10.2.2009) by [S.I. 2009/256](#), arts. 1(2), 3, **Sch. 1**)
- S. 162 applied (with modifications) (21.11.2002 except for specified purposes) by [The Scottish Parliament \(Elections etc.\) Order 2002 \(S.I. 2002/2779\)](#), arts. 1, 81, **Sch. 6 Pt. I**
- S. 162 applied (W.) (24.3.2004) by [The Local Authorities \(Conduct of Referendums\) \(Wales\) Regulations 2004 \(S.I. 2004/870\)](#), reg. 15(8), **Sch. 5** (which S.I. was revoked (24.7.2008) by [S.I. 2008/1848](#))
- S. 162 applied (with modifications) (15.3.2007 except for specified purposes) by [The Scottish Parliament \(Elections etc.\) Order 2007 \(S.I. 2007/937\)](#), arts. 1, 83, **Sch. 6 Pt. I**
- C128** S. 162 applied (W.) (24.7.2008) by [The Local Authorities \(Conduct of Referendums\) \(Wales\) Regulations 2008 \(S.I. 2008/1848\)](#), reg. 11, **Sch. 5**



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## 163 Holder of licence or certificate under Licensing Acts.

- (1) If it appears to an election court that a person holding a licence or certificate under the Licensing Acts has knowingly permitted any bribery or treating in reference to any election to take place upon his licensed premises—
  - (a) the court shall, after affording him such rights as are conferred on those about to be reported under section 160(1) above, report the fact; and
  - (b) <sup>F61</sup> . . . , [<sup>F62</sup>the court shall] bring the report before the licensing authority from whom, or on whose certificate, that person obtained his licence, and the licensing authority shall cause the report to be entered in the proper register of licences.
- (2) The entry of the report in that register shall be taken into consideration by the licensing authority in determining whether they will or will not grant a renewal of the licence or certificate of the person reported and may be a ground, if the authority think fit, for refusing renewal.

### Textual Amendments

**F61** Words repealed by [Representation of the People Act 1985 \(c. 50, SIF 42\)](#), s. 28, **Sch. 5**

**F62** Words substituted by [Representation of the People Act 1985 \(c. 50, SIF 42\)](#), s. 24, **Sch. 4 para. 55**

### Modifications etc. (not altering text)

**C129** S. 163 applied (E.W.S.) by [S.I. 1986/2209](#), regs. 2, 3, 5(1)(6)-(8), **Sch. 1 Pt. I**

S. 163 applied (N.I.) by [S.I. 1986/2250](#), regs. 2, 3, 5, **Sch. 1 Pt. I**

S. 163 applied (E.) (28.7.2007) by [The Local Authorities \(Conduct of Referendums\) \(England\) Regulations 2007 \(S.I. 2007/2089\)](#), reg. 15, **Sch. 6**

**C130** S. 163 applied (with modifications) (11.3.1999) by [S.I. 1999/787](#), art. 85(1)(3), **Sch. 6 Pt. I** (which S.I. was revoked (21.11.2002 except for specified purposes) by [S.I. 2002/2779](#), **arts. 1, 2** (which S.I. was revoked (15.3.2007) by [S.I. 2007/937](#), **art. 2(a)**))

S. 163 applied (with modifications) (2.4.2001) by [S.I. 2001/1298](#), reg. 19(8), **Sch. 6**

S. 163 applied (with modifications) (21.11.2002 except for specified purposes) by [The Scottish Parliament \(Elections etc.\) Order 2002 \(S.I. 2002/2779\)](#), arts. 1, 81, **Sch. 6 Pt. I** (which S.I. was revoked (15.3.2007) by [S.I. 2007/937](#), art. 2(a))

S. 163 applied (W.) (24.3.2004) by [The Local Authorities \(Conduct of Referendums\) \(Wales\) Regulations 2004 \(S.I. 2004/870\)](#), reg. 15(8), **Sch. 5** (which S.I. was revoked (24.7.2008) by [S.I. 2008/1848](#))

S. 163 applied (with modifications) (15.3.2007 except for specified purposes) by [The Scottish Parliament \(Elections etc.\) Order 2007 \(S.I. 2007/937\)](#), arts. 1, 83, **Sch. 6 Pt. I**

**C131** S. 163 applied (W.) (24.7.2008) by [The Local Authorities \(Conduct of Referendums\) \(Wales\) Regulations 2008 \(S.I. 2008/1848\)](#), reg. 11, **Sch. 5**

**C132** S. 163 applied (with modifications) (1.8.2001) by [S.I. 2001/2599](#), art. 3, **Sch. 1** (as substituted (10.2.2009) by [S.I. 2009/256](#), arts. 1(2), 3, **Sch. 1**)

*Further provision as to avoidance of elections and striking off votes*

## 164 Avoidance of election for general corruption etc.

- (1) Where on an election petition it is shown that corrupt or illegal practices or illegal payments, employments or hirings committed in reference to the election for the purpose of promoting or procuring the election of any person at that election have

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so extensively prevailed that they may be reasonably supposed to have affected the result—

- (a) his election, if he has been elected, shall be void, and
  - (b) he shall be incapable of being elected to fill the vacancy or any of the vacancies for which the election was held.
- (2) An election shall not be liable to be avoided otherwise than under this section by reason of general corruption, bribery, treating or intimidation.
- (3) An election under the local government Act may be questioned on the ground that it is avoided under this section.

#### **Modifications etc. (not altering text)**

- C133** S. 164 applied (E.W.S.) by S.I. 1986/2209, regs. 2, 3, 5(1)(6)-(8), **Sch. 1 Pt. I**  
S. 164 applied (N.I.) by S.I. 1986/2250, regs. 2, 3, 5, **Sch. 1 Pt. I**
- C134** S. 164 applied (with modifications) (N.I.) (4.5.1996) by S.I. 1996/1220, art. 3(1)(b)(5)-(8), **Sch. 1**  
S. 164 applied (with modifications) (11.3.1999) by S.I. 1999/787, art. 85(1)(3), **Sch. 6 Pt. I** (which S.I. was revoked (21.11.2002 except for specified purposes) by S.I. 2002/2779, **arts. 1, 2** (which S.I. was revoked (15.3.2007) by S.I. 2007/937, **art. 2(a)**))  
S. 164 applied (with modifications) (21.11.2002 except for specified purposes) by [The Scottish Parliament \(Elections etc.\) Order 2002 \(S.I. 2002/2779\)](#), arts. 1, 81, **Sch. 6 Pt. I** (which S.I. was revoked (15.3.2007) by S.I. 2007/937, **art. 2(a)**)  
S. 164 applied (with modifications) (15.3.2007 except for specified purposes) by [The Scottish Parliament \(Elections etc.\) Order 2007 \(S.I. 2007/937\)](#), arts. 1, 83, **Sch. 6 Pt. I**
- C135** S. 164 applied (with modifications) (1.8.2001) by S.I. 2001/2599, art. 3, **Sch. 1** (as substituted (10.2.2009) by S.I. 2009/256, arts. 1(2), 3, **Sch. 1**)
- C136** S. 164(1)(2) applied (with modifications) (2.4.2001) by S.I. 2001/1298, reg. 19(8), **Sch. 6**  
S. 164(1)(2) applied (with modifications) (W.) (24.3.2004) by [The Local Authorities \(Conduct of Referendums\) \(Wales\) Regulations 2004 \(S.I. 2004/870\)](#), reg. 15(8), **Sch. 5** (which S.I. was revoked (24.7.2008) by S.I. 2008/1848)  
S. 164(1)(2) applied (E.) (28.7.2007) by [The Local Authorities \(Conduct of Referendums\) \(England\) Regulations 2007 \(S.I. 2007/2089\)](#), reg. 15, **Sch. 6**
- C137** S. 164(1)(2) applied (with modifications) (W.) (24.7.2008) by [The Local Authorities \(Conduct of Referendums\) \(Wales\) Regulations 2008 \(S.I. 2008/1848\)](#), reg. 11, **Sch. 5**

#### **165 Avoidance of election for employing corrupt agent.**

- (1) If at a parliamentary or local government election a candidate or his election agent personally engages as a canvasser or agent for the conduct or management of the election any person whom he knows or has reasonable grounds for supposing to be subject to an incapacity to vote at the election by reason—
- (a) of his having been convicted or reported of any corrupt or illegal practice within the meaning of this Act or of the law relating to elections for the Northern Ireland Assembly, or
  - (b) of his having been convicted more than once of an offence under the <sup>M3</sup>Public Bodies Corrupt Practices Act 1889,
- the candidate shall be incapable of being elected to fill the vacancy or any of the vacancies for which the election is held.

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- (2) A local government election may be questioned on the ground that the person whose election is questioned was, at the time of the election, by virtue of this section incapable of being elected.
- (3) A vote given for a person who, at the time of the election, was by virtue of this section incapable of being elected shall not, by reason of that incapacity, be deemed to be thrown away so as to entitle another candidate to be declared elected, unless given at a poll consequent on the decision of an election court that he was so incapable.
- [<sup>F63</sup>(4) In the case of an election of the Mayor of London, a vote deemed in accordance with subsection (3) above to be thrown away shall be so deemed only to the extent that it is a vote given so as to indicate that the person who was under the incapacity is the voter's first or second preference from among the candidates.]

#### Textual Amendments

**F63** S. 165(4) inserted (14.12.1999) by 1999 c. 29, s. 17, **Sch. 3 para. 36** (with Sch. 12 para. 9(1)); S.I. 1999/3376, art. 2

#### Modifications etc. (not altering text)

- C138** S. 165 applied (with modifications) (E.W.S.) by S.I. 1986/2209, regs. 2, 3, 5(1)(6)-(8), **Sch. 1 Pt. I**  
S. 165 applied (with modifications) (N.I.) by S.I. 1986/2250, regs. 2, 3, 5, **Sch. 1 Pt. I**  
S. 165 applied (with modifications) (11.3.1999) by S.I. 1999/787, art. 85(1)(3), **Sch. 6 Pt. I** (which S.I. was revoked (21.11.2002 except for specified purposes) by S.I. 2002/2779, arts. 1, 2 (which S.I. was revoked (15.3.2007) by S.I. 2007/937, art. 2(a)))  
S. 165 applied (with modifications) (21.11.2002 except for specified purposes) by [The Scottish Parliament \(Elections etc.\) Order 2002](#) (S.I. 2002/2779), arts. 1, 81, **Sch. 6 Pt. I** (which S.I. was revoked (15.3.2007) by S.I. 2007/937, art. 2(a))  
S. 165 applied (with modifications) (15.3.2007 except for specified purposes) by [The Scottish Parliament \(Elections etc.\) Order 2007](#) (S.I. 2007/937), arts. 1, 83, **Sch. 6 Pt. I**
- C139** S. 165 applied (with modifications) (1.8.2001) by S.I. 2001/2599, art. 3, **Sch. 1** (as substituted (10.2.2009) by S.I. 2009/256, arts. 1(2), 3, **Sch. 1**)

#### Marginal Citations

**M3** 1889 c. 69.

## 166 Votes to be struck off for corrupt or illegal practices.

- (1) Where, on a parliamentary election petition claiming the seat for any person, a candidate is proved to have been guilty by himself, or by any person on his behalf, of bribery, treating or undue influence in respect of any person who voted at the election there shall, on a scrutiny, be struck off from the number of votes appearing to have been given to the candidate one vote for every person who voted at the election and is proved to have been so bribed, treated or unduly influenced.
- (2) If any person who is guilty of a corrupt or illegal practice or of illegal payment, employment or hiring at an election votes at the election, his vote shall be void.
- (3) If any person who is subject under any enactment relating to corrupt or illegal practices to an incapacity to vote at a parliamentary election or an election to any [<sup>F64</sup>elective office or to any public office in Scotland] votes at that election, his vote shall be void.

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### Textual Amendments

**F64** Words in s. 166(3) substituted (16.2.2001) by 2000 c. 41, s. 137, **Sch. 17 para. 9**, (with s. 156(6)); S.I. 2001/222, art. 2, **Sch. 1 Pt. I** (with **Sch. 1 Pt. II**)

### Modifications etc. (not altering text)

**C140** S. 166 applied (E.W.S.) by S.I. 1986/2209, regs. 2, 3, 5(1)(6)-(8), **Sch. 1 Pt. I**

S. 166 applied (N.I.) by S.I. 1986/2250, regs. 2, 3, 5, **Sch. 1 Pt. I**

**C141** S. 166 applied (with modifications) (N.I.) (4.5.1996) by S.I. 1996/1220, art. 3(1)(b)(5)-(8), **Sch. 1**

S. 166 applied (with modifications) (11.3.1999) by S.I. 1999/787, art. 85(1)(3), **Sch. 6 Pt. I** (which S.I. was revoked (21.11.2002 except for specified purposes) by S.I. 2002/2779, **arts. 1, 2** (which S.I. was revoked (15.3.2007) by S.I. 2007/937, **art. 2(a))**)

S. 166 applied (with modifications) (21.11.2002 except for specified purposes) by [The Scottish Parliament \(Elections etc.\) Order 2002](#) (S.I. 2002/2779), **arts. 1, 81, Sch. 6 Pt. I** (which S.I. was revoked (15.3.2007) by S.I. 2007/937, **art. 2(a)**)

S. 166 applied (with modifications) (15.3.2007 except for specified purposes) by [The Scottish Parliament \(Elections etc.\) Order 2007](#) (S.I. 2007/937), **arts. 1, 83, Sch. 6 Pt. I**

**C142** S. 166(2)(3) applied (with modifications) (1.8.2001) by S.I. 2001/2599, art. 3(1), **Sch. 1**

*Power to except innocent act from being illegal practice, payment, employment or hiring*

## 167 Application for relief.

(1) An application for relief under this section may be made to the High Court or an election court or else, if in respect of a payment made in contravention of section 78(1) or (2) above, or of paragraph 1 of Schedule 4 to this Act, to a county court.

[<sup>F65</sup>(1A) Where a person makes an application under this section he shall notify the Director of Public Prosecutions of the application and the Director or his assistant or representative may attend the hearing of the application and make representations at the hearing in respect of it.]

(2) If it is shown to the court by such evidence as to the court seems sufficient—

- (a) that any act or omission of any person would apart from this section by reason of being in contravention of this Act be an illegal practice, payment, employment or hiring,
- (b) that the act or omission arose from inadvertence or from accidental miscalculation or from some other reasonable cause of a like nature, and in any case did not arise from any want of good faith, and
- (c) that such notice of the application has been given in the constituency or, as the case may be, the area of the authority for which the election was held, as to the court seems fit,

and under the circumstances it seems to the court to be just that either that or any other person should not be subject to any of the consequences under this Act of the act or omission, the court may make an order allowing the act or omission to be an exception from the provisions of this Act making it an illegal practice, payment, employment or hiring and upon the making of the order no person shall be subject to any of the consequences under this Act of that act or omission.

(3) In relation to an election of councillors in Scotland, the references in subsection (1) to applications to the High Court or a county court shall be omitted.

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<sup>F66</sup>(4) . . . . .

[<sup>F67</sup>(5) Article 60 of the County Courts (Northern Ireland) Order 1980 (appeals from county courts) shall apply in relation to any order of a county court in Northern Ireland made by virtue of this section as it applies in relation to any such decree of a county court as is mentioned in paragraph (1) of that Article.]

#### Textual Amendments

- F65** S. 167(1A) inserted by Representation of the People Act 1985 (c. 50, SIF 42), s. 24, **Sch. 4 para. 56**
- F66** S. 167(4) repealed (16.2.2001) by 2000 c. 41, ss. 138(1)(2), 158(2)(3), Sch. 18 para. 18(1)(f), **Sch. 22** (with ss. 156(6), 158(3)); S.I. 2001/222, art. 2, **Sch. 1 Pt. 1**, Annex (with Sch. 1 Pt. II)
- F67** S. 167(5) substituted (16.2.2001) by 2000 c. 41, ss. 138(1)(2), 158(2)(3), **Sch. 18 para. 18(5)**; S.I. 2001/222, art. 2, **Sch. 1 Pt. 1** (with Sch. 1 Pt. II)

#### Modifications etc. (not altering text)

- C143** S. 167 applied (E.W.S.) by S.I. 1986/2209, regs. 2, 3, 5(1)(6)-(8), **Sch. 1 Pt. 1**
- S. 167 applied (N.I.) by S.I. 1986/2250, regs. 2, 3, 5, **Sch. 1 Pt. 1**
- S. 167 applied (E.) (28.7.2007) by The Local Authorities (Conduct of Referendums) (England) Regulations 2007 (S.I. 2007/2089), **regs. 8, 11, 13**, {Sch. 4 Table 1}
- S. 167 applied (E.) (28.7.2007) by The Local Authorities (Conduct of Referendums) (England) Regulations 2007 (S.I. 2007/2089), reg. 15, **Sch. 6**
- C144** S. 167 applied (with modifications) (N.I.) (4.5.1996) by S.I. 1996/1220, art. 3(1)(b)(5)-(8), **Sch. 1**
- S. 167 applied (with modifications) (31.7.1997) by 1997 c. 61, s. 3, **Sch. 3 para. 13** Table 1
- S. 167 applied (with modifications) (N.I.) (25.4.1998) by S.I. 1998/1126, art. 6, **Sch. 2**
- S. 167 applied (with modifications) (11.3.1999) by S.I. 1999/787, art. 85(1)-(3), **Sch. 6 Pts. I, II** (which S.I. was revoked (21.11.2002 except for specified purposes) by S.I. 2002/2779, **arts. 1, 2** (which S.I. was revoked (15.3.2007) by S.I. 2007/937, **art. 2(a)**))
- S. 167 applied (with modifications) (2.4.2001) by S.I. 2001/1298, regs. 8, 10(4), **Sch. 3** Table 2 (subject to regs. 9-12, 15-17, 20, 25)
- S. 167 applied (with modifications) (2.4.2001) by S.I. 2001/1298, reg. 19(8), **Sch. 6**
- S. 167 applied (with modifications) (21.11.2002 except for specified purposes) by The Scottish Parliament (Elections etc.) Order 2002 (S.I. 2002/2779), arts. 1, 81, **Sch. 6 Pts. I, II** (which S.I. was revoked (15.3.2007) by S.I. 2007/937, art. 2(a))
- S. 167 applied (W.) (24.3.2004) by The Local Authorities (Conduct of Referendums) (Wales) Regulations 2004 (S.I. 2004/870), **reg. 8**, {Sch. 3 Table 2} (which S.I. was revoked (24.7.2008) by S.I. 2008/1848)
- S. 167 applied (W.) (24.3.2004) by The Local Authorities (Conduct of Referendums) (Wales) Regulations 2004 (S.I. 2004/870), reg. 15(8), **Sch. 5** (which S.I. was revoked (24.7.2008) by S.I. 2008/1848)
- S. 167 applied (with modifications) (23.7.2004) by The Regional Assembly and Local Government Referendums Order 2004 (S.I. 2004/1962), art. 6(2), **Sch. 2 Pt. 2**
- S. 167 applied (with modifications) (15.3.2007 except for specified purposes) by The Scottish Parliament (Elections etc.) Order 2007 (S.I. 2007/937), arts. 1, 83, **Sch. 6 Pts. I, II**
- C145** S. 167 applied (W.) (24.7.2008) by The Local Authorities (Conduct of Referendums) (Wales) Regulations 2008 (S.I. 2008/1848), reg. 11, **Sch. 5**
- C146** S. 167 applied (with modifications) (W.) (24.7.2008) by The Local Authorities (Conduct of Referendums) (Wales) Regulations 2008 (S.I. 2008/1848), **reg. 8**, {Sch. 4 para. 1 Table 1}
- C147** S. 167 applied (with modifications) (1.8.2001) by S.I. 2001/2599, art. 3, **Sch. 1** (as substituted (10.2.2009) by S.I. 2009/256, arts. 1(2), 3, **Sch. 1**)

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### *Prosecutions for corrupt or illegal practices*

#### **168 Prosecutions for corrupt practices.**

- [<sup>F68</sup>(1) A person who is guilty of a corrupt practice shall be liable—
- (a) on conviction on indictment—
    - (i) in the case of a corrupt practice under section 60 above, to imprisonment for a term not exceeding two years, or to a fine, or to both,
    - (ii) in any other case, to imprisonment for a term not exceeding one year, or to a fine, or to both;
  - (b) on summary conviction, to imprisonment for a term not exceeding 6 months, or to a fine not exceeding the statutory maximum, or to both.]

<sup>F68</sup>(2) .....

<sup>F68</sup>(3) .....

<sup>F68</sup>(4) .....

<sup>F69</sup>(5) .....

<sup>F69</sup>(6) .....

- (7) If it appears to the court by which any person holding a licence or certificate under the Licensing Acts is convicted of the offence of bribery or treating that the offence was committed on his licensed premises—
- (a) the court shall direct the conviction to be entered in the proper register of licences, and
  - (b) the entry shall be taken into consideration by the licensing authority in determining whether they will or will not grant a renewal of the licence or certificate, and may be a ground, if the authority think fit, for refusing its renewal.

#### **Textual Amendments**

**F68** S. 168(1) substituted for s. 168(1)–(4) by [Representation of the People Act 1985 \(c. 50, SIF 42\)](#), s. 23, [Sch. 3 para. 8](#)

**F69** S. 168(5)(6) repealed by [Representation of the People Act 1985 \(c. 50, SIF 42\)](#), ss. 24, 28, [Sch. 4 para. 57](#), [Sch. 5](#)

#### **Modifications etc. (not altering text)**

**C148** S. 168 applied (E.W.S.) by [S.I. 1986/2209](#), regs. 2, 3, 5(1)(6)–(8), [Sch. 1 Pt. 1](#)

S. 168 applied (N.I.) by [S.I. 1986/2250](#), regs. 2, 3, 5, [Sch. 1 Pt. 1](#)

S. 168 applied (N.I.) (25.4.1998) by [S.I. 1998/1126](#), art. 6, [Sch. 2](#)

**C149** S. 168 applied (with modifications) (N.I.) (4.5.1996) by [S.I. 1996/1220](#), art. 3(1)(b)(5)–(8), [Sch. 1](#)

S. 168 applied (with modifications) (31.7.1997) by 1997 c. 61, s. 3, [Sch. 3 para. 13](#) Table 1

S. 168 applied (with modifications) (11.3.1999) by [S.I. 1999/787](#), art. 85(1)–(3), [Sch. 6 Pts. I, II](#) (which S.I. was revoked (21.11.2002 except for specified purposes) by [S.I. 2002/2779](#), [arts. 1, 2](#) (which S.I. was revoked (15.3.2007) by [S.I. 2007/937](#), [art. 2\(a\)](#)))

S. 168 applied (with modifications) (2.4.2001) by [S.I. 2001/1298](#), regs. 8, 10(4), [Sch. 3](#) Table 2 (subject to regs. 9-12, 15-17, 20, 25)

S. 168 applied (with modifications) (1.8.2001) by [S.I. 2001/2599](#), art. 3(1), [Sch. 1](#)

*Status: Point in time view as at 03/04/2006.*

*Changes to legislation: Representation of the People Act 1983, Part III is up to date with all changes known to be in force on or before 25 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

S. 168 applied (with modifications) (21.11.2002 except for specified purposes) by [The Scottish Parliament \(Elections etc.\) Order 2002 \(S.I. 2002/2779\)](#), arts. 1, 81, **Sch. 6 Pts. I, II** (which S.I. was revoked (15.3.2007) by [S.I. 2007/937](#), art. 2(a))

S. 168 applied (W.) (24.3.2004) by [The Local Authorities \(Conduct of Referendums\) \(Wales\) Regulations 2004 \(S.I. 2004/870\)](#), **reg. 8**, {Sch. 3 Table 2} (which S.I. was revoked (24.7.2008) by [S.I. 2008/1848](#))

S. 168 applied (with modifications) (23.7.2004) by [The Regional Assembly and Local Government Referendums Order 2004 \(S.I. 2004/1962\)](#), art. 6(2), **Sch. 2 Pt. 2**

## 169 Prosecutions for illegal practices.

A person guilty of an illegal practice shall on summary conviction <sup>F70</sup> . . . be [<sup>F71</sup>liable to a fine not exceeding level 5 on the standard scale; and] on a prosecution for an illegal practice it shall be sufficient to allege that the person charged was guilty of an illegal practice.

### Textual Amendments

**F70** Words repealed by [Representation of the People Act 1985 \(c. 50, SIF 42\)](#), s. 28, **Sch. 5**

**F71** Words substituted by [Representation of the People Act 1985 \(c. 50, SIF 42\)](#), s. 23, **Sch. 3 para. 9**

### Modifications etc. (not altering text)

**C150** S. 169 applied (E.W.S.) by [S.I. 1986/2209](#), regs. 2, 3, 5(1)(6)-(8), **Sch. 1 Pt. I**

S. 169 applied (N.I.) by [S.I. 1986/2250](#), regs. 2, 3, 5, **Sch. 1 Pt. I**

S. 169 applied (N.I.) (25.4.1998) by [S.I. 1998/1126](#), art. 6, **Sch. 2**

S. 169 applied (E.) (28.7.2007) by [The Local Authorities \(Conduct of Referendums\) \(England\) Regulations 2007 \(S.I. 2007/2089\)](#), **regs. 8, 11, 13**, {Sch. 4 Table 1}

**C151** S. 169 applied (with modifications) (N.I.) (4.5.1996) by [S.I. 1996/1220](#), art. 3(1)(b)(5)-(8), **Sch. 1**

S. 169 applied (with modifications) (31.7.1997) by [1997 c. 61](#), s. 3, **Sch. 3 para. 13** Table 1

S. 169 applied (with modifications) (11.3.1999) by [S.I. 1999/787](#) art. 85, Sch. 6 Pts. I, II (which S.I. was revoked (21.11.2002 except for specified purposes) by [S.I. 2002/2779](#), **arts. 1, 2** (which S.I. was revoked (15.3.2007) by [S.I. 2007/937](#), **art. 2(a)**))

S. 169 applied (with modifications) (2.4.2001) by [S.I. 2001/1298](#), regs. 8, 10(4), **Sch. 3** Table 2 (subject to regs. 9-12, 15-17, 20, 25)

S. 169 applied (with modifications) (21.11.2002 except for specified purposes) by [The Scottish Parliament \(Elections etc.\) Order 2002 \(S.I. 2002/2779\)](#), arts. 1, 81, **Sch. 6 Pts. I, II** (which S.I. was revoked (15.3.2007) by [S.I. 2007/937](#), art. 2(a))

S. 169 applied (W.) (24.3.2004) by [The Local Authorities \(Conduct of Referendums\) \(Wales\) Regulations 2004 \(S.I. 2004/870\)](#), **reg. 8**, {Sch. 3 Table 2} (which S.I. was revoked (24.7.2008) by [S.I. 2008/1848](#))

S. 169 applied (23.7.2004) by [The Regional Assembly and Local Government Referendums Order 2004 \(S.I. 2004/1962\)](#), art. 6(2), **Sch. 2 Pt. 2**

S. 169 applied (with modifications) (15.3.2007 except for specified purposes) by [The Scottish Parliament \(Elections etc.\) Order 2007 \(S.I. 2007/937\)](#), arts. 1, 83, **Sch. 6 Pts. I, II**

**C152** S. 169 applied (with modifications) (W.) (24.7.2008) by [The Local Authorities \(Conduct of Referendums\) \(Wales\) Regulations 2008 \(S.I. 2008/1848\)](#), **reg. 8**, {Sch. 4 para. 1 Table 1}

**C153** S. 169 applied (with modifications) (1.8.2001) by [S.I. 2001/2599](#), art. 3, Sch. 1 (as substituted (10.2.2009) by [S.I. 2009/256](#), arts. 1(2), 3, **Sch. 1**)

*Status: Point in time view as at 03/04/2006.*

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**170 Conviction of illegal practice on charge of corrupt practice etc.**

A person charged with a corrupt practice may, if the circumstances warrant such finding, be found guilty of an illegal practice (which offence shall for that purpose be an indictable offence), and a person charged with an illegal practice may be found guilty of that offence notwithstanding that the act constituting the offence amounted to a corrupt practice.

**Modifications etc. (not altering text)**

- C154** S. 170 applied (N.I.) by S.I. 1986/2250, regs. 2, 3, 5, **Sch. 1 Pt. I**
- S. 170 applied (E.W.S.) by S.I. 1986/2209, regs. 2, 3, 5(1)(6)-(8), **Sch. 1 Pt. I**
- S. 170 applied (N.I.) (25.4.1998) by S.I. 1998/1126, art. 6, **Sch. 2**
- S. 170 applied (E.) (28.7.2007) by **The Local Authorities (Conduct of Referendums) (England) Regulations 2007 (S.I. 2007/2089)**, **regs. 8, 11, 13**, {Sch. 4 Table 1}
- C155** S. 170 applied (with modifications) (N.I.) (4.5.1996) by S.I. 1996/1220, art. 3(1)(b)(5)-(8), **Sch. 1**
- S. 170 applied (with modifications) (31.7.1997) by 1997 c. 61, s. 3, **Sch. 3 para. 13** Table 1
- S. 170 applied (with modifications) (11.3.1999) by S.I. 1999/787, art. 85(1)-(3), **Sch. 6 Pt. I** (which S.I. was revoked (21.11.2002 except for specified purposes) by S.I. 2002/2779, **arts. 1, 2** (which S.I. was revoked (15.3.2007) by S.I. 2007/937, **art. 2(a)**))
- S. 170 applied (with modifications) (2.4.2001) by S.I. 2001/1298, regs. 8, 10(4), **Sch. 3** Table 2 (subject to regs. 9-12, 15-17, 20, 25)
- S. 170 applied (with modifications) (21.11.2002 except for specified purposes) by **The Scottish Parliament (Elections etc.) Order 2002 (S.I. 2002/2779)**, **arts. 1, 81**, **Sch. 6 Pts. I, II** (which S.I. was revoked (15.3.2007) by S.I. 2007/937, **art. 2(a)**)
- S. 170 applied (W.) (24.3.2004) by **The Local Authorities (Conduct of Referendums) (Wales) Regulations 2004 (S.I. 2004/870)**, **reg. 8**, {Sch. 3 Table 2} (which S.I. was revoked (24.7.2008) by S.I. 2008/1848)
- S. 170 applied (23.7.2004) by **The Regional Assembly and Local Government Referendums Order 2004 (S.I. 2004/1962)**, art. 6(2), **Sch. 2 Pt. 2**
- S. 170 applied (with modifications) (15.3.2007 except for specified purposes) by **The Scottish Parliament (Elections etc.) Order 2007 (S.I. 2007/937)**, **arts. 1, 83**, **Sch. 6 Pts. I, II**
- C156** S. 170 applied (with modifications) (W.) (24.7.2008) by **The Local Authorities (Conduct of Referendums) (Wales) Regulations 2008 (S.I. 2008/1848)**, **reg. 8**, {Sch. 4 para. 1 Table 1}
- C157** S. 170 applied (with modifications) (1.8.2001) by S.I. 2001/2599, art. 3, **Sch. 1** (as substituted (10.2.2009) by S.I. 2009/256, **arts. 1(2), 3**, **Sch. 1**)

<sup>F72</sup>**171** .....

**Textual Amendments**

- F72** S. 171 repealed by **Representation of the People Act 1985 (c. 50, SIF 42)**, ss. 24, 28, **Sch. 4 para. 58**, **Sch. 5**

<sup>F73</sup>**172** .....



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### Textual Amendments

**F73** S. 172 repealed by Representation of the People Act 1985 (c. 50, SIF 42), ss. 24, 28, Sch. 4 para. 59, Sch. 5

## [<sup>F74</sup>173 Incapacities on conviction of corrupt or illegal practice.

- (1) Subject to subsection (2) below, a person convicted of a corrupt or illegal practice—
  - (a) shall, during the relevant period specified in subsection (3) below, be incapable of—
    - (i) being registered as an elector or voting at any parliamentary election in the United Kingdom or at any local government election in Great Britain, or
    - (ii) being elected to the House of Commons, or
    - (iii) holding any elective office; and
  - (b) if already elected to a seat in the House of Commons or holding any such office, shall vacate the seat or office subject to and in accordance with subsections (4) and (5) below.
- (2) The incapacity imposed by subsection (1)(a)(i) above applies only to a person convicted of a corrupt practice under section 60 above or of an illegal practice under section 61 above.
- (3) For the purposes of subsection (1)(a) above the relevant period is the period beginning with the date of the conviction and ending—
  - (a) in the case of a person convicted of a corrupt practice, five years after that date, or
  - (b) in the case of a person convicted of an illegal practice, three years after that date,except that if (at any time within that period of five or three years) a court determines on an appeal by that person against the conviction that it should not be upheld, the relevant period shall end at that time instead.
- (4) Where subsection (1)(b) applies to any person, he shall (subject to subsection (5) below) vacate the seat or office in question at the appropriate time for the purposes of this section, namely—
  - (a) the end of the period which is the period prescribed by law within which notice of appeal may be given, or an application for leave to appeal may be made, by him in respect of the conviction, or
  - (b) if (at any time within that period) that period is extended—
    - (i) the end of the period as so extended, or
    - (ii) the end of the period of three months beginning with the date of the conviction,whichever is the earlier.
- (5) If (before the appropriate time mentioned in subsection (4) above) notice of appeal is given, or an application for leave to appeal is made, by such a person in respect of the conviction, he shall vacate the seat or office in question at the end of the period of three months beginning with the date of the conviction unless—

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- (a) such an appeal is dismissed or abandoned at any earlier time (in which case he shall vacate the seat or office at that time), or
  - (b) at any time within that period of three months the court determines on such an appeal that the conviction should not be upheld (in which case the seat or office shall not be vacated by him).
- (6) Where such a person vacates a seat or office in accordance with subsection (4) or (5) above, no subsequent determination of a court that his conviction should not be upheld shall entitle him to resume the seat or office.
- (7) If a person convicted of a corrupt or illegal practice has already been elected to a seat in the House of Commons or to any elective office, he shall (in addition to being subject to the incapacities mentioned in subsection (1)(a) above) be suspended from performing any of his functions as a Member of Parliament, or (as the case may be) any of the functions of that office, during the period of suspension specified in subsection (8) below.
- (8) For the purposes of subsection (7) above the period of suspension is the period beginning with the date of the conviction and ending with—
- (a) the date on which the seat or office is vacated in accordance with subsection (4) or (5) above, or
  - (b) where subsection (5)(b) above applies, the date on which the court determines that the conviction should not be upheld.
- (9) Any incapacities or other requirement applying to a person by virtue of subsection (1) or (7) above applies in addition to any punishment imposed under section 168 or 169 above; but each of those subsections has effect subject to section 174 below.
- (10) Without prejudice to the generality of section 205(2) below, nothing in this section affects matters relating to the Northern Ireland Assembly or local elections or holding office in Northern Ireland.]

#### Textual Amendments

**F74** S. 173, 173A substituted for s. 173 (16.2.2001) by 2000 c. 41, s. 136; S.I. 2001/222, art. 2, **Sch. 1 Pt. I** (with **Sch. 1 Pt. 2 para. 6**)

#### Modifications etc. (not altering text)

**C158** S. 173 applied (with modifications) (1.8.2001) by S.I. 2001/2599, art. 3(1), **Sch. 1**

S. 173 applied (with modifications) (21.11.2002 except for specified purposes) by **The Scottish Parliament (Elections etc.) Order 2002** (S.I. 2002/2779), arts. 1, 81, **Sch. 6 Pt. I** (which S.I. was revoked (15.3.2007) by S.I. 2007/937, art. 2(a))

**C159** S. 173(1)(a)(i)(2)(3) applied (with modifications) (2.4.2001) by S.I. 2001/1298, regs. 8, 10(4), **Sch. 3** Table 2 (subject to regs. 9-12, 15-17, 20, 25)

S. 173(1)(a)(i)(2)(3) applied (with modifications) (W.) (24.3.2004) by **The Local Authorities (Conduct of Referendums) (Wales) Regulations 2004** (S.I. 2004/870), **reg. 8**, {Sch. 3 Table 2} (which S.I. was revoked (24.7.2008) by S.I. 2008/1848)

#### [<sup>F75</sup>173A Incapacity to hold public or judicial office in Scotland.

- (1) Subject to section 174 below, a person convicted of a corrupt practice—
  - (a) shall for the period of five years beginning with the date of his conviction, be incapable of holding any public or judicial office in Scotland, and

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- (b) if already holding such an office, shall vacate it as from that date.
- (2) Subsection (1) above applies in addition to—
  - (a) any incapacity or other requirement applying to the person by virtue of section 173 above, and
  - (b) any punishment imposed on him under section 168 above.]

#### **Textual Amendments**

**F75** Ss. 173, 173A substituted for s. 173 (16.2.2001) by 2000 c. 41, s. 136; S.I. 2001/222, art. 2, Sch. 1 Pt. I (with Sch. 1 Pt. 2 para. 6)

#### **Modifications etc. (not altering text)**

**C160** S. 173A applied (with modifications) (21.11.2002 except for specified purposes) by The Scottish Parliament (Elections etc.) Order 2002 (S.I. 2002/2779), arts. 1, 81, Sch. 6 Pts. I, II (which S.I. was revoked (15.3.2007) by S.I. 2007/937, art. 2(a))

### *Mitigation and remission of incapacities*

#### **174 Mitigation and remission etc.**

- (1) Where—
  - (a) any person is subject to any incapacity by virtue of the report of an election court, and
  - (b) he or some other person in respect of whose acts the incapacity was imposed is on a prosecution acquitted of any of the matters in respect of which the incapacity was imposed,the court may order that the incapacity shall thenceforth cease so far as it is imposed in respect of those matters.
- (2) Where any person who is subject to any incapacity as mentioned above is on a prosecution convicted of any such matters as are mentioned above, no further incapacity shall be taken to be imposed by reason of the conviction, and the court shall have the like power (if any) to mitigate or remit for the future the incapacity so far as it is imposed by section 160 above in respect of the matters of which he is convicted, as if the incapacity had been imposed by reason of the conviction.
- (3) A court exercising any of the powers conferred by subsections (1) and (2) above shall make an order declaring how far, if at all, the incapacities imposed by virtue of the relevant report remain unaffected by the exercise of that power, and that order shall be conclusive for all purposes.
- (4) Where a person convicted of a corrupt or illegal practice is subsequently reported to have been guilty of that practice by an election court, no further incapacity shall be imposed on him under section 160 by reason of the report.
- (5) Where any person is subject to any incapacity by virtue of a conviction or of the report of an election court, and any witness who gave evidence against that person upon the proceeding for the conviction or report is convicted of perjury in respect of that evidence, the incapacitated person may apply to the High Court, and the court, if satisfied that the conviction or report so far as respects that person was based upon perjury, may order that the incapacity shall thenceforth cease.

*Status: Point in time view as at 03/04/2006.*

*Changes to legislation: Representation of the People Act 1983, Part III is up to date with all changes known to be in force on or before 25 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

F76(6) .....

### Textual Amendments

**F76** S. 174(6) repealed (16.2.2001) by 2000 c. 41, ss. 138(1)(2), 158(2)(3), Sch. 18 para. 18(1)(g), **Sch. 22**, (with ss. 156(6), 158(3)); S.I. 2001/222, art. 2, **Sch. 1 Pt. 1**, Annex (with Sch. 1 Pt. II)

### Modifications etc. (not altering text)

- C161** S. 174 applied (E.W.S.) by S.I. 1986/2209, regs. 2, 3, 5(1)(6)-(8), **Sch. 1 Pt. I**  
S. 174 applied (N.I.) by S.I. 1986/2250, regs. 2, 3, 5, **Sch. 1 Pt. I**  
S. 174 applied (N.I.) (25.4.1998) by S.I. 1998/1126, art. 6, **Sch. 2**  
S. 174 applied (1.3.2003) by The National Assembly for Wales (Representation of the People) Order 2003 (S.I. 2003/284), **art. 110** (with art. 82(1)) (which S.I. was revoked (11.2.2007) by S.I. 2007/236, art. 1(2))  
S. 174 applied (1.3.2003) by The National Assembly for Wales (Representation of the People) Order 2003 (S.I. 2003/284), **art. 111** (with art. 82(1)) (which S.I. was revoked (11.2.2007) by S.I. 2007/236, art. 1(2))  
S. 174 applied (1.3.2003) by The National Assembly for Wales (Representation of the People) Order 2003 (S.I. 2003/284), **art. 123(2)** (with art. 82(1)) (which S.I. was revoked (11.2.2007) by S.I. 2007/236, art. 1(2))  
S. 174 applied (1.3.2003) by The National Assembly for Wales (Representation of the People) Order 2003 (S.I. 2003/284), **art. 124(3)** (with art. 82(1)) (which S.I. was revoked (11.2.2007) by S.I. 2007/236, art. 1(2))
- C162** S. 174 applied (1.2.2007) by The National Assembly for Wales (Representation of the People) Order 2007 (S.I. 2007/236), **art. 124(2)** (with arts. 83(1), 137(1))  
S. 174 applied (E.) (28.7.2007) by The Local Authorities (Conduct of Referendums) (England) Regulations 2007 (S.I. 2007/2089), **regs. 8, 11, 13**, {Sch. 4 Table 1}
- C163** S. 174 applied (with modifications) (31.7.1997) by 1997 c. 61, s. 3, **Sch. 3 para. 13** Table 1  
S. 174 applied (with modifications) (11.3.1999) by S.I. 1999/787, art. 85(1)-(3), Sch. 6 Pts. I, II (which S.I. was revoked (21.11.2002 except for specified purposes) by S.I. 2002/2779, **arts. 1, 2** (which S.I. was revoked (15.3.2007) by S.I. 2007/937, **art. 2(a)**))  
S. 174 applied (with modifications) (2.4.2001) by S.I. 2001/1298, **regs. 8, 10(4)**, **Sch. 3** Table 2 (subject to regs. 9-12, 15-17, 20, 25)  
S. 174 applied (with modifications) (21.11.2002 except for specified purposes) by The Scottish Parliament (Elections etc.) Order 2002 (S.I. 2002/2779), arts. 1, 81, **Sch. 6 Pts. I, II** (which S.I. was revoked (15.3.2007) by S.I. 2007/937, art. 2(a))  
S. 174 applied (W.) (24.3.2004) by The Local Authorities (Conduct of Referendums) (Wales) Regulations 2004 (S.I. 2004/870), **reg. 8**, {Sch. 3 Table 2} (which S.I. was revoked (24.7.2008) by S.I. 2008/1848)
- C164** S. 174 extended (W.) (11.3.1999) by S.I. 1999/450, **arts. 124(2)(4), 136(2), 137(2)(3)** (which S.I. was revoked (29.2.2003) by S.I. 2003/284, **art. 1**)
- C165** S. 174 applied (with modifications) (15.3.2007 except for specified purposes) by The Scottish Parliament (Elections etc.) Order 2007 (S.I. 2007/937), arts. 1, 83, **Sch. 6 Pts. I, II**
- C166** S. 174 applied (with modifications) (W.) (24.7.2008) by The Local Authorities (Conduct of Referendums) (Wales) Regulations 2008 (S.I. 2008/1848), **reg. 8**, {Sch. 4 para. 1 Table 1}
- C167** S. 174 applied (with modifications) (1.8.2001) by S.I. 2001/2599, art. 3, **Sch. 1** (as substituted (10.2.2009) by S.I. 2009/256, arts. 1(2), 3, **Sch. 1**)

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### *Illegal payments, employments or hirings*

#### **175 Illegal payments etc.**

- (1) A person guilty of an offence of [<sup>F77</sup>illegal payment or employment] shall, on summary conviction, be [<sup>F78</sup>liable to a fine not exceeding level 5 on the standard scale; and] on a prosecution for such an offence it shall be sufficient to allege that the person charged was guilty of an [<sup>F77</sup>illegal payment or employment] as the case may be.
- (2) A candidate or election agent who is personally guilty of an offence of [<sup>F77</sup>illegal payment or employment] shall be guilty of an illegal practice, and if an offence of [<sup>F77</sup>illegal payment or employment] is committed with the candidate's knowledge and consent at an election where candidates are not required to have election agents, the candidate shall be guilty of an illegal practice.
- (3) Any person charged with an offence of [<sup>F77</sup>illegal payment or employment] may be found guilty of that offence, notwithstanding that the act constituting the offence amounted to a corrupt or illegal practice.

#### **Textual Amendments**

- F77** Words in s. 175 substituted (16.2.2001) by 2001 c. 41, s. 158, **Sch. 21 para. 6(6)** (with s.156(6); S.I. 2001/222art. 2 Sch. 1 (with **Sch. 1 Pt. II**))
- F78** Words substituted by Representation of the People Act 1985 (c. 50, SIF 42), s. 23, **Sch. 3 para. 10**

#### **Modifications etc. (not altering text)**

- C168** S. 175 applied (E.W.S.) by S.I. 1986/2209, regs. 2, 3, 5(1)(6)-(8), **Sch. 1 Pt. I**  
S. 175 applied (N.I.) by S.I. 1986/2250, regs. 2, 3, 5, **Sch. 1 Pt. I**
- C169** S. 175 applied (with modifications) (N.I.) (4.5.1996) by S.I. 1996/1220, art. 3(1)(b)(5)-(8), **Sch. 1**  
S. 175 applied (with modifications) (31.7.1997) by 1997 c. 61, s. 3, **Sch. 3 para. 13** Table 1  
S. 175 applied (with modifications) (N.I.) (25.4.1998) by S.I. 1998/1126, art. 6, **Sch. 2**  
S. 175 applied (with modifications) (11.3.1999) by S.I. 1999/787, art. 85(1)-(3), **Sch. 6 Pts. I, II** (which S.I. was revoked (21.11.2002 except for specified purposes) by S.I. 2002/2779, **arts. 1, 2** (which S.I. was revoked (15.3.2007) by S.I. 2007/937, **art. 2(a)**))  
S. 175 applied (with modifications) (2.4.2001) by S.I. 2001/1298, regs. 8, 10(4), **Sch. 3** Table 2 (subject to regs. 9-12, 15-17, 20, 25)  
S. 175 applied (with modifications) (21.11.2002 except for specified purposes) by The Scottish Parliament (Elections etc.) Order 2002 (S.I. 2002/2779), **arts. 1, 81**, {Sch. 6 Pts. I, II} (which S.I. was revoked (15.3.2007) by S.I. 2007/937, **art. 2(a)**)  
S. 175 applied (with modifications) (W.) (24.3.2004) by The Local Authorities (Conduct of Referendums) (Wales) Regulations 2004 (S.I. 2004/870), **reg. 8**, {Sch. 3 Table 2} (which S.I. was revoked (24.7.2008) by S.I. 2008/1848)  
S. 175 applied (with modifications) (23.7.2004) by The Regional Assembly and Local Government Referendums Order 2004 (S.I. 2004/1962), art. 6(2), **Sch. 2 Pt. 2**  
S. 175 applied (with modifications) (15.3.2007 except for specified purposes) by The Scottish Parliament (Elections etc.) Order 2007 (S.I. 2007/937), **arts. 1, 83**, **Sch. 6 Pts. I, II**  
S. 175 applied (with modifications) (E.) (28.7.2007) by The Local Authorities (Conduct of Referendums) (England) Regulations 2007 (S.I. 2007/2089), **regs. 8, 11, 13**, {Sch. 4 Table 1}
- C170** S. 175 applied (with modifications) (W.) (24.7.2008) by The Local Authorities (Conduct of Referendums) (Wales) Regulations 2008 (S.I. 2008/1848), **reg. 8**, {Sch. 4 para. 1 Table 1}
- C171** S. 175 applied (with modifications) (1.8.2001) by S.I. 2001/2599, art. 3, **Sch. 1** (as substituted (10.2.2009) by S.I. 2009/256, **arts. 1(2), 3**, **Sch. 1**)

*Status: Point in time view as at 03/04/2006.*

*Changes to legislation: Representation of the People Act 1983, Part III is up to date with all changes known to be in force on or before 25 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

### General provisions as to prosecutions

#### 176 Time limit for prosecutions.

(1) A proceeding against a person in respect of [<sup>F79</sup>any offence under any provision contained in or made under this Act] shall be commenced within one year after the offence was committed, and the time so limited by this section shall, in the case of any proceedings under the <sup>M4</sup>Magistrates' Courts Act 1980 (or, in Northern Ireland, the <sup>M5</sup>Magistrates' Courts (Northern Ireland) Order 1981) for any such offence, <sup>F80</sup> . . . be substituted for any limitation of time contained in that Act or Order.

[<sup>F81</sup>(2) For the purposes of this section—

- (a) in England and Wales, the laying of an information;
  - (b) in Scotland, the granting of a warrant to apprehend or cite the accused (if, in relation to an offence alleged to have been committed within the United Kingdom, such warrant is executed without [<sup>F82</sup>undue] delay); and
  - (c) in Northern Ireland, the making of a complaint,
- shall be deemed to be the commencement of a proceeding.]

<sup>F83</sup>(3) . . . . .

#### Textual Amendments

- F79** Words substituted by Representation of the People Act 1985 (c. 50, SIF 42), s. 24, **Sch. 4 para. 61(a)**
- F80** Words repealed by Representation of the People Act 1985 (c. 50, SIF 42), s. 28, **Sch. 5**
- F81** S. 176(2) substituted by Representation of the People Act 1985 (c. 50, SIF 42), s. 24, **Sch. 4 para. 61(b)**
- F82** Word inserted (S.) by virtue of Law Reform (Miscellaneous Provisions) (Scotland) Act 1985 (c. 73, SIF 36:1, 39:1), ss. 23, 59(1), **Sch. 2 para. 32**
- F83** S. 176(3) repealed by Representation of the People Act 1985 (c. 50, SIF 42), ss. 24, 28, **Sch. 4 para. 61(c)**, Sch. 5

#### Modifications etc. (not altering text)

- C172** S. 176 applied (E.W.S.) by S.I. 1986/2209, regs. 2, 3, 5(1)(6)-(8), **Sch. 1 Pt. I**  
S. 176 applied (N.I.) by S.I. 1986/2250, regs. 2, 3, 5, **Sch. 1 Pt. I**  
S. 176 applied (N.I.) (25.4.1998) by S.I. 1998/1126, art. 6, **Sch. 2**
- C173** S. 176 applied (with modifications) (N.I.) (4.5.1996) by S.I. 1996/1220, art. 3(1)(b)(5)-(8), **Sch. 1**  
S. 176 applied (with modifications) (31.7.1997) by 1997 c. 61, s. 3, **Sch. 3 para. 13** Table 1  
S. 176 applied (with modifications) (11.3.1999) by S.I. 1999/787, art. 85(1)-(3), Sch. 6 Pts. I, II (which S.I. was revoked (21.11.2002 except for specified purposes) by S.I. 2002/2779, **arts. 1, 2** (which S.I. was revoked (15.3.2007) by S.I. 2007/937, **art. 2(a)**))  
S. 176 applied (with modifications) (2.4.2001) by S.I. 2001/1298, regs. 8, 10(4), **Sch. 3** Table 2 (subject to regs. 9-12, 15-17, 20, 25)  
S. 176 applied (with modifications) (1.8.2001) by S.I. 2001/2599, art. 3(1), **Sch. 1**  
S. 176 applied (with modifications) (21.11.2002 except for specified purposes) by The Scottish Parliament (Elections etc.) Order 2002 (S.I. 2002/2779), **arts. 1, 81**, {Sch. 6 Pts. I, II} (which S.I. was revoked (15.3.2007) by S.I. 2007/937, **art. 2(a)**)  
S. 176 applied (W.) (24.3.2004) by The Local Authorities (Conduct of Referendums) (Wales) Regulations 2004 (S.I. 2004/870), **reg. 8**, {Sch. 3 Table 2} (which S.I. was revoked (24.7.2008) by S.I. 2008/1848)  
S. 176 applied (23.7.2004) by The Regional Assembly and Local Government Referendums Order 2004 (S.I. 2004/1962), art. 6(2), **Sch. 2 Pt. 2**

*Status: Point in time view as at 03/04/2006.*

*Changes to legislation: Representation of the People Act 1983, Part III is up to date with all changes known to be in force on or before 25 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

#### Marginal Citations

- M4 1980 c. 43.
- M5 S.I. 1981/1675 (N.I. 26).

### 177 Local election offence punishable summarily.

[<sup>F84</sup>(1)] A prosecution for any offence punishable summarily committed in reference to an election under the local government Act—

- (a) may be instituted before any magistrates' court in the county in which the local government area for which the election was held is situated or which it adjoins; and
- (b) the offence shall be deemed for all purposes to have been committed within the jurisdiction of that court.

This section does not apply in Scotland.

<sup>F85</sup>(2) .....

#### Textual Amendments

- F84** S. 177 renumbered as s. 177(1) (1.4.1996) by 1994 c. 19, s. 1(3), **Sch. 2 para. 12(1)** (with ss. 54(4)(7), 55(5), Sch. 17 paras. 22(1), 23(2)); S.I. 1995/3198, art. 3, **Sch. 1**
- F85** S. 177(2) added (1.4.1996) by 1994 c. 19, s. 1(3), **Sch. 2 para. 12(1)** (with ss. 54(4)(7), 55(5), Sch. 17 paras. 22(1), 23(2)); S.I. 1995/3198, art. 3, **Sch. 1**; and s. 177(2) repealed (1.4.1996) by S.I. 1996/675, art. 2, **Sch. Pt. II para. 5**)

#### Modifications etc. (not altering text)

- C174** S. 177 amended (1.4.1996) by S.I. 1996/674, reg. 2, **Sch. Pt. II para. 5(2)(n)**  
S. 177 amended (1.4.1996) by S.I. 1996/675, art. 2, **Sch. Pt. II para. 7(2)(n)**  
S. 177 applied (with modifications) (31.7.1997) by 1997 c. 61, s. 3, **Sch. 3 para. 13** Table 1  
S. 177 applied (with modifications) (2.4.2001) by S.I. 2001/1298, regs. 8, 10(4), **Sch. 3** Table 2 (subject to regs. 9-12, 15-17, 20, 25)  
S. 177 applied (with modifications) (W.) (24.3.2004) by [The Local Authorities \(Conduct of Referendums\) \(Wales\) Regulations 2004](#) (S.I. 2004/870), **reg. 8**, {Sch. 3 Table 2} (which S.I. was revoked (24.7.2008) by S.I. 2008/1848)  
S. 177 applied (with modifications) (23.7.2004) by [The Regional Assembly and Local Government Referendums Order 2004](#) (S.I. 2004/1962), art. 6(2), **Sch. 2 Pt. 2**  
S. 177 applied (with modifications) (E.) (28.7.2007) by [The Local Authorities \(Conduct of Referendums\) \(England\) Regulations 2007](#) (S.I. 2007/2089), **regs. 8, 11, 13**, {Sch. 4 Table 1}
- C175** S. 177 applied (with modifications) (W.) (24.7.2008) by [The Local Authorities \(Conduct of Referendums\) \(Wales\) Regulations 2008](#) (S.I. 2008/1848), **reg. 8**, {Sch. 4 para. 1 Table 1}

### [<sup>F86</sup>178 Prosecution of offences committed outside the United Kingdom.

Proceedings in respect of an offence under this Act alleged to have been committed outside the United Kingdom by a Commonwealth citizen or citizen of the Republic of Ireland may be taken, and the offence may for all incidental purposes be treated as having been committed, in any place in the United Kingdom.]

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### Textual Amendments

**F86** S. 178 substituted by Representation of the People Act 1985 (c. 50, SIF 42), s. 24, **Sch. 4 para. 62**

### Modifications etc. (not altering text)

- C176** S. 178 applied (E.W.S.) by S.I. 1986/2209, regs. 2, 3, 5(1)(6)-(8), **Sch. 1 Pt. I**  
S. 178 applied (N.I.) by S.I. 1986/2250, regs. 2, 3, 5, **Sch. 1 Pt. I**  
S. 178 applied (N.I.) (25.4.1998) by S.I. 1998/1126, art. 6, **Sch. 2**  
S. 178 applied (E.) (28.7.2007) by The Local Authorities (Conduct of Referendums) (England) Regulations 2007 (S.I. 2007/2089), **regs. 8, 11, 13**, {Sch. 4 Table 1}
- C177** S. 178 modified (17.2.1994) by S.I. 1994/342, **regs. 1(2)(3), 5(3), 6(3)**
- C178** S. 178 applied (with modifications) (N.I.) (4.5.1996) by S.I. 1996/1220, art. 3(1)(b)(5)-(8), **Sch. 1**  
S. 178 applied (with modifications) (31.7.1997) by 1997 c. 61, s. 3, **Sch. 3 para. 13** Table 1  
S. 178 applied (with modifications) (11.3.1999) by S.I. 1999/787, art. 85(1)-(3), **Sch. 6 Pts. I, II** (which S.I. was revoked (21.11.2002 except for specified purposes) by S.I. 2002/2779, **arts. 1, 2** (which S.I. was revoked (15.3.2007) by S.I. 2007/937, **art. 2(a)**))  
S. 178 applied (with modifications) (2.4.2001) by S.I. 2001/1298, **regs. 8, 10(4), Sch. 3** Table 2 (subject to regs. 9-12, 15-17, 20, 25)  
S. 178 applied (with modifications) (21.11.2002 except for specified purposes) by The Scottish Parliament (Elections etc.) Order 2002 (S.I. 2002/2779), **arts. 1, 81, Sch. 6 Pts. I, II** (which S.I. was revoked (15.3.2007) by S.I. 2007/937, **art. 2(a)**)  
S. 178 applied (W.) (24.3.2004) by The Local Authorities (Conduct of Referendums) (Wales) Regulations 2004 (S.I. 2004/870), **reg. 8**, {Sch. 3 Table 2} (which S.I. was revoked (24.7.2008) by S.I. 2008/1848)  
S. 178 applied (23.7.2004) by The Regional Assembly and Local Government Referendums Order 2004 (S.I. 2004/1962), **art. 6(2), Sch. 2 Pt. 2**  
S. 178 applied (with modifications) (15.3.2007 except for specified purposes) by The Scottish Parliament (Elections etc.) Order 2007 (S.I. 2007/937), **arts. 1, 83, Sch. 6 Pts. I, II**
- C179** S. 178 applied (with modifications) (W.) (24.7.2008) by The Local Authorities (Conduct of Referendums) (Wales) Regulations 2008 (S.I. 2008/1848), **reg. 8**, {Sch. 4 para. 1 Table 1}
- C180** S. 178 applied (with modifications) (1.8.2001) by S.I. 2001/2599, **art. 3, Sch. 1** (as substituted (10.2.2009) by S.I. 2009/256, **arts. 1(2), 3, Sch. 1**)

## 179 Offences by associations.

Where—

- (a) any corrupt or illegal practice or any illegal payment, employment or hiring, or
- (b) any offence under section 110 above,

is committed by any association or body of persons, corporate or unincorporate, the members of the association or body who have taken part in the commission of the offence shall be liable to any fine or punishment imposed for that offence by this Act.

### Modifications etc. (not altering text)

- C181** S. 179 applied (E.W.S.) by S.I. 1986/2209, regs. 2, 3, 5(1)(6)-(8), **Sch. 1 Pt. I**  
S. 179 applied (N.I.) by S.I. 1986/2250, regs. 2, 3, 5, **Sch. 1 Pt. I**  
S. 179 applied (N.I.) (25.4.1998) by S.I. 1998/1126, art. 6, **Sch. 2**
- C182** S. 179 applied (with modifications) (N.I.) (4.5.1996) by S.I. 1996/1220, art. 3(1)(b)(5)-(8), **Sch. 1**  
S. 179 applied (with modifications) (31.7.1997) by 1997 c. 61, s. 3, **Sch. 3 para. 13** Table 1



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S. 179 applied (with modifications) (11.3.1999) by S.I. 1999/787, art. 85(1)-(3), Sch. 6 Pts. I, II (which S.I. was revoked (21.11.2002 except for specified purposes) by S.I. 2002/2779, arts. 1, 2 (which S.I. was revoked (15.3.2007) by S.I. 2007/937, art. 2(a)))

S. 179 applied (with modifications) (2.4.2001) by S.I. 2001/1298, regs. 8, 10(4), Sch. 3 Table 2 (subject to regs. 9-12, 15-17, 20, 25)

S. 179 applied (with modifications) (1.8.2001) by S.I. 2001/2599, art. 3(1), Sch. 1

S. 179 applied (with modifications) (21.11.2002 except for specified purposes) by The Scottish Parliament (Elections etc.) Order 2002 (S.I. 2002/2779), arts. 1, 81, Sch. 6 Pts. I, II (which S.I. was revoked (15.3.2007) by S.I. 2007/937, art. 2(a))

S. 179 applied (W.) (24.3.2004) by The Local Authorities (Conduct of Referendums) (Wales) Regulations 2004 (S.I. 2004/870), reg. 8, {Sch. 3 Table 2} (which S.I. was revoked (24.7.2008) by S.I. 2008/1848)

S. 179 applied (with modifications) (23.7.2004) by The Regional Assembly and Local Government Referendums Order 2004 (S.I. 2004/1962), art. 6(2), Sch. 2 Pt. 2

## 180 Evidence by certificate of holding of elections.

On—

- (a) any prosecution for a corrupt or illegal practice or for any illegal payment, employment or hiring, and
- (b) any proceedings for a penalty under section 85 above or paragraph 4 of Schedule 4 to this Act,

the certificate of the returning officer at an election—

- (i) that the election mentioned in the certificate was duly held, and
  - (ii) that the person named in the certificate was a candidate at the election,
- shall be sufficient evidence of the facts stated in it.

### Modifications etc. (not altering text)

**C183** S. 180 applied (E.W.S.) by S.I. 1986/2209, regs. 2, 3, 5(1)(6)-(8), Sch. 1 Pt. I

S. 180 applied (N.I.) by S.I. 1986/2250, regs. 2, 3, 5, Sch. 1 Pt. I

**C184** S. 180 applied (with modifications) (N.I.) (4.5.1996) by S.I. 1996/1220, art. 3(1)(b)(5)-(8), Sch. 1

S. 180 applied (with modifications) (11.3.1999) by S.I. 1999/787, art. 85(1)-(3), Sch. 6 Pts. I, II (which S.I. was revoked (21.11.2002 except for specified purposes) by S.I. 2002/2779, arts. 1, 2 (which S.I. was revoked (15.3.2007) by S.I. 2007/937, art. 2(a)))

S. 180 applied (with modifications) (2.4.2001) by S.I. 2001/1298, reg. 19(8), Sch. 6

S. 180 applied (with modifications) (21.11.2002 except for specified purposes) by The Scottish Parliament (Elections etc.) Order 2002 (S.I. 2002/2779), arts. 1, 81, Sch. 6 Pts. I, II (which S.I. was revoked (15.3.2007) by S.I. 2007/937, art. 2(a))

S. 180 applied (with modifications) (W.) (24.3.2004) by The Local Authorities (Conduct of Referendums) (Wales) Regulations 2004 (S.I. 2004/870), reg. 15(8), Sch. 5 (which S.I. was revoked (24.7.2008) by S.I. 2008/1848)

S. 180 applied (with modifications) (15.3.2007 except for specified purposes) by The Scottish Parliament (Elections etc.) Order 2007 (S.I. 2007/937), arts. 1, 83, Sch. 6 Pts. I, II

S. 180 applied (with modifications) (E.) (28.7.2007) by The Local Authorities (Conduct of Referendums) (England) Regulations 2007 (S.I. 2007/2089), reg. 15, Sch. 6

**C185** S. 180 applied (with modifications) (W.) (24.7.2008) by The Local Authorities (Conduct of Referendums) (Wales) Regulations 2008 (S.I. 2008/1848), reg. 11, Sch. 5

**C186** S. 180 applied (with modifications) (1.8.2001) by S.I. 2001/2599, art. 3, Sch. 1 (as substituted (10.2.2009) by S.I. 2009/256, arts. 1(2), 3, Sch. 1)

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## [<sup>F87</sup>180A Evidence by certificate of electoral registration.

The certificate of a registration officer that any person is or is not, or was or was not at any particular time, duly registered in one of the officer's registers in respect of any address shall be sufficient evidence of the facts stated in it; and a document purporting to be such a certificate shall be received in evidence and presumed to be such a certificate unless the contrary is proved.]

### Textual Amendments

**F87** S. 180A inserted (29.1.2001 for certain purposes and otherwise 16.2.2001) by 2000 c. 2, s. 8, **Sch. 1 para. 20**; S.I. 2001/116, **art. 2(1)(2)** (with art. 2(3)-(5))

### Modifications etc. (not altering text)

**C187** S. 180A applied (with modifications) (N.I.) (16.2.2001) by 1989 c. 3, s. 2, **Sch. 1 Pts. I, II** (with s. 13(6)) (as amended (16.2.2001) by 2000 c. 2, s. 8, **Sch. 3 para. 3(8)**); S.I. 2001/116, **art. 2(1)** (with art. 2(3)-(5))

S. 180A applied (with modifications) (21.11.2002 except for specified purposes) by **The Scottish Parliament (Elections etc.) Order 2002** (S.I. 2002/2779), arts. 1, 81, **Sch. 6 Pts. I, II** (which S.I. was revoked (15.3.2007) by S.I. 2007/937, art. 2(a))

S. 180A applied (23.7.2004) by **The Regional Assembly and Local Government Referendums Order 2004** (S.I. 2004/1962), art. 6(2), **Sch. 2 Pt. 2**

S. 180A applied (with modifications) (15.3.2007 except for specified purposes) by **The Scottish Parliament (Elections etc.) Order 2007** (S.I. 2007/937), arts. 1, 83, **Sch. 6 Pts. I, II**

**C188** S. 180A applied (with modifications) (1.8.2001) by S.I. 2001/2599, art. 3, **Sch. 1** (as substituted (10.2.2009) by S.I. 2009/256, arts. 1(2), 3, **Sch. 1**)

## 181 Director of Public Prosecutions.

- (1) Where information is given to the Director of Public Prosecutions that any [<sup>F88</sup>offence under this Act has been committed], it is his duty to make such inquiries and institute such prosecutions as the circumstances of the case appear to him to require.
- (2) The Director by himself or by his assistant or by his representative appointed under subsection (3) below [<sup>F89</sup>may and, if the election court so requests him, shall] attend the trial of every election petition.
- (3) The Director may nominate, <sup>F90</sup> . . . , a barrister or solicitor <sup>F90</sup> . . . to be his representative for the purposes of this Part of this Act <sup>F90</sup> . . .
- [<sup>F91</sup>(4) The Director in performing any duty under this Act shall act in accordance with regulations under the <sup>M6</sup>Prosecution of Offences Act 1979, and subject to them in accordance with the directions (if any) given to him by the Attorney General; and any assistant or representative of the Director in performing any duty under this Part shall act in accordance with those regulations and directions (if any) and with the directions given to him by the Director.]
- (5) There shall be allowed to the Director and his assistant or representative for the purposes of this Part (other than his general duties under subsection (1) above) such allowances for expenses as the Treasury may approve.
- (6) The costs incurred in defraying the expenses of the Director incurred for those purposes (including the remuneration of his representative) shall, in the first instance, be paid by the Treasury, and <sup>F92</sup> . . . shall be deemed to be expenses of the election

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court; but if for any reasonable cause it seems just to the court so to do, the court shall order all or part of those costs to be repaid to the Treasury by the parties to the petition, or such of them as the court may direct.

(7) In the application of this section to Scotland, subsections (2) to (6) shall be omitted.

[<sup>F93</sup>(8) In the application of this section to Northern Ireland, the reference to the <sup>M7</sup>Prosecution of Offences Act 1979 does not apply.]

#### Textual Amendments

- F88** Words substituted by [Representation of the People Act 1985 \(c. 50, SIF 42\)](#), s. 24, **Sch. 4 para. 63(a)**  
**F89** Words substituted by [Representation of the People Act 1985 \(c. 50, SIF 42\)](#), s. 24, **Sch. 4 para. 63(b)**  
**F90** Words repealed by [Representation of the People Act 1985 \(c. 50, SIF 42\)](#), ss. 24, 28, **Sch. 4 para. 63(c)**, Sch. 5  
**F91** [S. 181\(4\)](#) repealed (E.W.) by [Prosecution of Offences Act 1985 \(c. 23, SIF 39:1\)](#), s. 31(6), **Sch. 2**  
**F92** Words repealed by [Representation of the People Act 1985 \(c. 50, SIF 42\)](#), s. 28, **Sch. 5**  
**F93** [S. 181\(8\)](#) repealed (E.W.) by [Prosecution of Offences Act 1985 \(c. 23, SIF 39:1\)](#), s. 31(6), **Sch. 2**

#### Modifications etc. (not altering text)

- C189** [S. 181](#) applied (E.W.S.) by [S.I. 1986/2209](#), regs. 2, 3, 5(1)(6)-(8), **Sch. 1 Pt. I**  
[S. 181](#) applied (N.I.) by [S.I. 1986/2250](#), regs. 2, 3, 5, **Sch. 1 Pt. I**  
[S. 181](#) applied (N.I.) (25.4.1998) by [S.I. 1998/1126](#), art. 6, **Sch. 2**  
**C190** [S. 181](#) applied (with modifications) (N.I.) (4.5.1996) by [S.I. 1996/1220](#), art. 3(1)(b)(5)-(8), **Sch. 1**  
[S. 181](#) applied (with modifications) (11.3.1999) by [S.I. 1999/787](#), art. 85(1)-(3), Sch. 6 Pts. I, II (which S.I. was revoked (21.11.2002 except for specified purposes) by [S.I. 2002/2779](#), **arts. 1, 2** (which S.I. was revoked (15.3.2007) by [S.I. 2007/937](#), **art. 2(a)**))  
[S. 181](#) applied (with modifications) (1.8.2001) by [S.I. 2001/2599](#), art. 3, Sch. 1 (as substituted (10.2.2009) by [S.I. 2009/256](#), **arts. 1(2), 3, Sch. 1**)  
[S. 181](#) applied (with modifications) (21.11.2002 except for specified purposes) by [The Scottish Parliament \(Elections etc.\) Order 2002 \(S.I. 2002/2779\)](#), arts. 1, 81, **Sch. 6 Pts. I, II** (which S.I. was revoked (15.3.2007) by [S.I. 2007/937](#), art. 2(a))  
[S. 181](#) applied (with modifications) (15.3.2007 except for specified purposes) by [The Scottish Parliament \(Elections etc.\) Order 2007 \(S.I. 2007/937\)](#), arts. 1, 83, **Sch. 6 Pts. I, II**  
**C191** [S. 181\(1\)](#) applied (with modifications) (31.7.1997) by 1997 c. 61, s. 3, **Sch. 3 para. 13** Table 1  
[S. 181\(1\)](#) applied (with modifications) (2.4.2001) by [S.I. 2001/1298](#), regs. 8, 10(4), **Sch. 3** Table 2 (subject to regs. 9-12, 15-17, 20, 25)  
[S. 181\(1\)](#) applied (W.) (24.3.2004) by [The Local Authorities \(Conduct of Referendums\) \(Wales\) Regulations 2004 \(S.I. 2004/870\)](#), **reg. 8**, {Sch. 3 Table 2} (which S.I. was revoked (24.7.2008) by [S.I. 2008/1848](#))  
[S. 181\(1\)](#) applied (23.7.2004) by [The Regional Assembly and Local Government Referendums Order 2004 \(S.I. 2004/1962\)](#), art. 6(2), **Sch. 2 Pt. 2**  
**C192** [S. 181\(1\)](#) applied (E.) (28.7.2007) by [The Local Authorities \(Conduct of Referendums\) \(England\) Regulations 2007 \(S.I. 2007/2089\)](#), **regs. 8, 11, 13**, {Sch. 4 Table 1}  
**C193** [S. 181\(1\)](#) applied (with modifications) (W.) (24.7.2008) by [The Local Authorities \(Conduct of Referendums\) \(Wales\) Regulations 2008 \(S.I. 2008/1848\)](#), **reg. 8**, {Sch. 4 para. 1 Table 1}

#### Marginal Citations

- M6** 1979 c. 31.  
**M7** 1979 c. 31.

*Status: Point in time view as at 03/04/2006.*

*Changes to legislation: Representation of the People Act 1983, Part III is up to date with all changes known to be in force on or before 25 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

## *Supplemental*

### 182 Rules of procedure.

- (1) The authority having for the time being power to make rules of court for the Supreme Court may make rules for the purposes of Part II and this Part of this Act.
- (2) In relation to the power conferred by subsection (1) above to make rules—
  - (a) that power shall be exercisable by statutory instrument, and be treated for the purposes of the <sup>M8</sup>Statutory Instruments Act 1946 as if conferred on a Minister of the Crown; and
  - (b) a statutory instrument containing rules under subsection (1) shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (3) This section does not apply to Scotland, but the Court of Session has power to make acts of sederunt for the purposes of Part II and this Part.
- (4) This section does not apply to Northern Ireland.

#### Modifications etc. (not altering text)

**C194** S. 182 applied (E.W.S.) by S.I. 1986/2209, regs. 2, 3, 5(1)(6)–(8), **Sch. 1 Pt. 1**

#### Marginal Citations

**M8** 1946 c. 36.

### 183 Costs.

- (1) The rules of the Supreme Court with respect to costs to be allowed in actions, causes and matters in the High Court shall in principle and so far as practicable apply to the costs of petition and other proceedings under Part II or this Part of this Act, and the taxing officer shall not allow any costs higher than would be allowed in any action, cause or matter in the High Court on a common fund basis.
- (2) Where any costs or other sums are, under the order of an election court or otherwise under this Part, to be paid by any person, those costs or sums shall be due from that person to the person or persons to whom they are to be paid and, if payable to the Treasury, shall be a debt due to Her Majesty and in either case may be recovered accordingly.
- (3) The above provisions of this section do not apply to Scotland, but those costs shall, subject to any regulations which the Court of Session may make by act of sederunt, be taxed as nearly as possible according to the same principles as expenses between solicitor and client are taxed in a cause in the Court of Session, or, when incurred in relation to an election of councillors, the sheriff court.

#### Modifications etc. (not altering text)

**C195** Ss. 183–186 applied (N.I.) by S.I. 1986/2250, regs. 2, 3, 5, **Sch. 1 Pt. I**

Ss. 183–186 applied (E.W.S.) by S.I. 1986/2209, regs. 2, 3, 5(1)(6)–(8), **Sch. 1 Pt. I**

**C196** S. 183 applied (E.) (28.7.2007) by **The Local Authorities (Conduct of Referendums) (England) Regulations 2007** (S.I. 2007/2089), reg. 15, **Sch. 6**

**C197** S. 183 applied (with modifications) (N.I.) (4.5.1996) by S.I. 1996/1220, art. 3(1)(b)(5)–(8), **Sch. 1**

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- S. 183 applied (with modifications) (11.3.1999) by S.I. 1999/787, art. 85(1)-(3), Sch. 6 Pts. I, II (which S.I. was revoked (21.11.2002 except for specified purposes) by S.I. 2002/2779, arts. 1, 2 (which S.I. was revoked (15.3.2007) by S.I. 2007/937, art. 2(a)))
- S. 183 applied (with modifications) (2.4.2001) by S.I. 2001/1298, regs. 19(8), Sch. 6
- S. 183 applied (with modifications) (21.11.2002 except for specified purposes) by The Scottish Parliament (Elections etc.) Order 2002 (S.I. 2002/2779), arts. 1, 81, Sch. 6 Pts. I, II (which S.I. was revoked (15.3.2007) by S.I. 2007/937, art. 2(a))
- S. 183 applied (W.) (24.3.2004) by The Local Authorities (Conduct of Referendums) (Wales) Regulations 2004 (S.I. 2004/870), reg. 15(8), Sch. 5 (which S.I. was revoked (24.7.2008) by S.I. 2008/1848)
- S. 183 applied (with modifications) (15.3.2007 except for specified purposes) by The Scottish Parliament (Elections etc.) Order 2007 (S.I. 2007/937), arts. 1, 83, Sch. 6 Pts. I, II
- S. 183 applied (with modifications) (1.8.2001) by S.I. 2001/2599, art. 3, Sch. 1 (as substituted (10.2.2009) by S.I. 2009/256, arts. 1(2), 3, Sch. 1)
- C198** S. 183 applied (W.) (24.7.2008) by The Local Authorities (Conduct of Referendums) (Wales) Regulations 2008 (S.I. 2008/1848), reg. 11, Sch. 5

## 184 Service of notices.

- (1) Any [<sup>F94</sup>notice, legal process or other] document required to be served on any person with reference to any proceeding respecting an election for the purpose of causing him to appear before the High Court, the county court, or any election court, or otherwise or of giving him an opportunity of making a statement, or showing cause, or being heard by himself before any court for any purpose of this Part of this Act may be served—
- by delivering it to that person, or by leaving it at, or sending it by post by a registered letter or by the recorded delivery service, to his last known place of abode in the constituency or, as the case may be, the area of the authority for which the election was held; or
  - if the proceeding is before any court in such other manner as the court may direct.
- (2) In proving service by post under this section it shall be sufficient to prove that the letter was prepaid, properly addressed, and registered or recorded with [<sup>F95</sup>the postal operator (within the meaning of the Postal Services Act 2000) concerned].

### Textual Amendments

- F94** Words in s. 184(1) substituted (16.2.2001) by 2000 c. 41, s. 138, Sch. 18 para. 19(5); S.I. 2001/222, art. 2 Sch. 1 Pt. I (with Sch. 1 Pt. II)
- F95** Words in s. 184(2) substituted (26.3.2001) by S.I. 2001/1149, art. 3(1), Sch. 1 para. 57(3)

### Modifications etc. (not altering text)

- C199** Ss. 183-186 applied (E.W.S.) by S.I. 1986/2209, regs. 2, 3, 5(1)(6)-(8), Sch. 1 Pt. I  
Ss. 183-186 applied (N.I.) by S.I. 1986/2250, regs. 2, 3, 5, Sch. 1 Pt. I
- C200** S. 184 applied (E.) (28.7.2007) by The Local Authorities (Conduct of Referendums) (England) Regulations 2007 (S.I. 2007/2089), reg. 15, Sch. 6
- C201** S. 184 applied (with modifications) (N.I.) (4.5.1996) by S.I. 1996/1220, art. 3(1)(b)(5)-(8), Sch. 1  
S. 184 applied (with modifications) (31.7.1997) by 1997 c. 61, s. 3, Sch. 3 para. 13 Table 1  
S. 184 applied (with modifications) (N.I.) (25.4.1998) by S.I. 1998/1126, art. 6, Sch. 2  
S. 184 applied (with modifications) (11.3.1999) by S.I. 1999/787, art. 85(1)-(3), Sch. 6 Pts. I, II (which S.I. was revoked (21.11.2002 except for specified purposes) by S.I. 2002/2779, arts. 1, 2 (which S.I. was revoked (15.3.2007) by S.I. 2007/937, art. 2(a)))

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- S. 184 applied (with modifications) (2.4.2001) by S.I. 2001/1298, reg. 19(8), **Sch. 6**
- S. 184 applied (with modifications) (21.11.2002 except for specified purposes) by The Scottish Parliament (Elections etc.) Order 2002 (S.I. 2002/2779), arts. 1, 81, **Sch. 6 Pts. I, II** (which S.I. was revoked (15.3.2007) by S.I. 2007/937, art. 2(a))
- S. 184 applied (W.) (24.3.2004) by The Local Authorities (Conduct of Referendums) (Wales) Regulations 2004 (S.I. 2004/870), reg. 15(8), **Sch. 5** (which S.I. was revoked (24.7.2008) by S.I. 2008/1848)
- S. 184 applied (with modifications) (23.7.2004) by The Regional Assembly and Local Government Referendums Order 2004 (S.I. 2004/1962), art. 6(2), **Sch. 2 Pt. 2**
- S. 184 applied (with modifications) (15.3.2007 except for specified purposes) by The Scottish Parliament (Elections etc.) Order 2007 (S.I. 2007/937), arts. 1, 83, **Sch. 6 Pts. I, II**
- C202** S. 184 applied (W.) (24.7.2008) by The Local Authorities (Conduct of Referendums) (Wales) Regulations 2008 (S.I. 2008/1848), reg. 11, **Sch. 5**
- C203** S. 184 applied (with modifications) (1.8.2001) by S.I. 2001/2599, art. 3, **Sch. 1** (as substituted (10.2.2009) by S.I. 2009/256, arts. 1(2), 3, **Sch. 1**)

## 185 Interpretation of Part III.

In this Part of this Act, unless the context otherwise requires—

“appropriate officer” has the same meaning as in section 67(7) above;

“candidate” has the same meaning as in Part II of this Act and the saving in section 117(1) above applies in relation to this Part as in relation to Part II;

“costs” includes charges and expenses;

“date of the allowance of an authorised excuse” has the meaning assigned to it by section 86(8) above or paragraph 7 of Schedule 4 to this Act, as the case may be;

“declaration as to election expenses” means a declaration made under section 82 above or, as the case may be, paragraph 3 of Schedule 4 to this Act;

[<sup>F96</sup>“elective office” means any office to which a local government election is held in England or Wales;]

“judicial office” includes the office of justice of the peace;

[<sup>F97</sup>“Licensing Acts” means the Licensing (Scotland) Act 1976 and the Licensing (Northern Ireland) Order 1996 (as that Act or Order may from time to time have effect);]

“money” and “pecuniary reward” shall be deemed to include—

- (a) any office, place or employment, and
- (b) any valuable security or other equivalent of money, and
- (c) any valuable consideration,

and expressions referring to money shall be construed accordingly;

“payment” includes any pecuniary or other reward;

“prescribed” means prescribed by rules of court, or, in Northern Ireland, such rules under section 55 of the <sup>M9</sup>Judicature (Northern Ireland Act 1978);

[<sup>F98</sup> “public office” in relation to Scotland means any office held in Scotland—]

- (a) under the Crown, or
- (b) under the charter of a city or borough, or
- (c) under the Acts relating to local government or public health or public education,

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whether the office is that—

- (i) of mayor, provost, chief magistrate, chairman, alderman, councillor, member of a board, commission or other local authority in any local government or other area; or
- (ii) of proper officer or other officer under a council, board, commission or other authority; or
- (iii) of any other office to which a person is elected or appointed under any such charter or enactment as is mentioned above, including any other municipal or parochial office;

“return as to election expenses” means a return made under section 81 above or, as the case maybe, paragraph 3 of Schedule 4 to this Act;

“Speaker” includes Deputy Speaker and, where the office of Speaker is vacant, Clerk of the House of Commons, or any other officer for the time being performing the duties of Clerk of the House of Commons.

#### Textual Amendments

- F96** Words in s. 185 substituted (16.2.2001) by 2000 c. 41, s. 137, **Sch. 17 para. 10(a)**, (with s. 156(6)); S.I. 2001/222, **art. 2 Sch. 1 Pt. I** (with Sch. 1 Pt. II)
- F97** S. 185: definition of "Licensing Acts" substituted (24.11.2005) by Licensing Act 2003 (c. 17), ss. 198, 201, **Sch. 6 para. 87** (with ss. 2(3), 15(2), 195); S.I. 2005/3056, **art. 2(2)**
- F98** Words in s. 185 substituted (16.2.2001) by 2000 c. 41, s. 137, **Sch. 17 para. 10(b)**, (with s. 156(6)); S.I. 2001/222, **art. 2 Sch. 1 Pt. I** (with Sch. 1 Pt. II)

#### Modifications etc. (not altering text)

- C204** Ss. 183-186 applied (E.W.S.) by S.I. 1986/2209, regs. 2, 3, 5(1)(6)-(8), **Sch. 1 Pt. I**  
Ss. 183-186 applied (N.I.) by S.I. 1986/2250, regs. 2, 3, 5, **Sch. 1 Pt. I**
- C205** S. 185 applied (with modifications) (N.I.) (4.5.1996) by S.I. 1996/1220, art. 3(1)(5)-(8), **Sch. 1**  
S. 185 applied (with modifications) (31.7.1997) by 1997 c. 61, s. 3, **Sch. 3 para. 13** Table 1  
S. 185 applied (with modifications) (S.) (11.3.1999) by S.I. 1999/787 art. 85(2)-(4), Sch. 6 Pt. II (which S.I. was revoked (21.11.2002 except for specified purposes) by S.I. 2002/2779, **arts. 1, 2** (which S.I. was revoked (15.3.2007) by S.I. 2007/937, **art. 2(a)**))  
S. 185 applied (with modifications) (2.4.2001) by S.I. 2001/1298, regs. 8, 10(4), **Sch. 3** Table 2 (subject to regs. 9-12, 15-17, 20, 25)  
S. 185 applied (with modifications) (2.4.2001) by S.I. 2001/1298, reg. 19(8), **Sch. 6**  
S. 185 applied (with modifications) (21.11.2002 except for specified purposes) by The Scottish Parliament (Elections etc.) Order 2002 (S.I. 2002/2779), arts. 1, 81, **Sch. 6 Pts. I, II** (which S.I. was revoked (15.3.2007) by S.I. 2007/937, art. 2(a))  
S. 185 applied (W.) (24.3.2004) by The Local Authorities (Conduct of Referendums) (Wales) Regulations 2004 (S.I. 2004/870), **reg. 8**, {Sch. 3 Table 2} (which S.I. was revoked (24.7.2008) by S.I. 2008/1848)  
S. 185 applied (W.) (24.3.2004) by The Local Authorities (Conduct of Referendums) (Wales) Regulations 2004 (S.I. 2004/870), **reg. 15(8)**, **Sch. 5** (which S.I. was revoked (24.7.2008) by S.I. 2008/1848)  
S. 185 applied in part (23.7.2004) by The Regional Assembly and Local Government Referendums Order 2004 (S.I. 2004/1962), art. 6(2), **Sch. 2 Pt. 2**  
S. 185 applied (with modifications) (15.3.2007 except for specified purposes) by The Scottish Parliament (Elections etc.) Order 2007 (S.I. 2007/937), arts. 1, 83, **Sch. 6 Pts. I, II**
- C206** S. 185 applied (N.I.) (25.4.1998) by S.I. 1998/1126, art. 6, **Sch. 2**  
S. 185 applied (S.) (11.3.1999) by S.I. 1999/787 art. 85(1)(3), Sch. 6 Pt. I

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S. 185 applied (E.) (28.7.2007) by The Local Authorities (Conduct of Referendums) (England) Regulations 2007 (S.I. 2007/2089), reg. 15, **Sch. 6**

S. 185 applied (E.) (28.7.2007) by The Local Authorities (Conduct of Referendums) (England) Regulations 2007 (S.I. 2007/2089), **regs. 8, 11, 13, {Sch. 4 Table 1}**

**C207** S. 185 applied (with modifications) (W.) (24.7.2008) by The Local Authorities (Conduct of Referendums) (Wales) Regulations 2008 (S.I. 2008/1848), **reg. 8, {Sch. 4 para. 1 Table 1}**

**C208** S. 185 applied (W.) (24.7.2008) by The Local Authorities (Conduct of Referendums) (Wales) Regulations 2008 (S.I. 2008/1848), reg. 11, **Sch. 5**

**C209** S. 185 applied (with modifications) (1.8.2001) by S.I. 2001/2599, art. 3, Sch. 1 (as substituted (10.2.2009) by S.I. 2009/256, arts. 1(2), 3, **Sch. 1**)

#### Marginal Citations

**M9** 1978 c. 23.

## 186 Computation of time for purposes of Part III.

Section 119 above applies in computing any period of time for the purposes of this Part of this Act as for the purposes of Part II of this Act.

#### Modifications etc. (not altering text)

**C210** Ss. 183-186 applied (E.W.S.) by S.I. 1986/2209, regs. 2, 3, 5(1)(6)-(8), **Sch. 1 Pt. I**

Ss. 183-186 applied (N.I.) by S.I. 1986/2250, regs. 2, 3, 5, **Sch. 1 Pt. I**

**C211** S. 186 applied (with modifications) (N.I.) (4.5.1996) by S.I. 1996/1220, art. 3(1)(b)(5)-(8), **Sch. 1**

S. 186 applied (with modifications) (11.3.1999) by S.I. 1999/787, art. 85(1)-(3), Sch. 6 Pts. I, II (which S.I. was revoked (21.11.2002 except for specified purposes) by S.I. 2002/2779, **arts. 1, 2** (which S.I. was revoked (15.3.2007) by S.I. 2007/937, **art. 2(a)**))

S. 186 applied (with modifications) (21.11.2002 except for specified purposes) by The Scottish Parliament (Elections etc.) Order 2002 (S.I. 2002/2779), arts. 1, 81, **Sch. 6 Pts. I, II** (which S.I. was revoked (15.3.2007) by S.I. 2007/937, art. 2(a))

S. 186 applied (23.7.2004) by The Regional Assembly and Local Government Referendums Order 2004 (S.I. 2004/1962), art. 6(2), **Sch. 2 Pt. 2**

S. 186 applied (with modifications) (15.3.2007 except for specified purposes) by The Scottish Parliament (Elections etc.) Order 2007 (S.I. 2007/937), arts. 1, 83, **Sch. 6 Pts. I, II**

**C212** S. 186 applied (with modifications) (1.8.2001) by S.I. 2001/2599, art. 3, Sch. 1 (as substituted (10.2.2009) by S.I. 2009/256, arts. 1(2), 3, **Sch. 1**)



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