



Local Government Act 1972

1972 CHAPTER 70

PART V

GENERAL PROVISIONS AS TO MEMBERS AND PROCEEDINGS OF LOCAL AUTHORITIES

Acceptance, resignation and vacation of office, and casual vacancies

89 Filling of casual vacancies in case of councillors.

- (1) Subject to the provisions of this section, on a casual vacancy occurring in the office of councillor for any principal area, an election to fill the vacancy shall be held—
 - (a) in a case in which the High Court or the council have declared the office to be vacant, within [^{F1}thirty-five days] (computed in accordance with section 243(4) below) from the date of the declaration;
 - (b) in any other case, within [^{F1}thirty-five days] (so computed) after notice in writing of the vacancy has been given to the proper officer of the authority by two local government electors for the area.
- (2) The day of election to fill a casual vacancy in any office mentioned in subsection (1) above shall be fixed by the returning officer ^{F2} . . .
- (3) Where a casual vacancy in any such office occurs within six months before the day on which the councillor whose office is vacant would regularly have retired, an election shall not be held under subsection (1) above unless on the occurrence of the vacancy (or in the case of a number of simultaneous vacancies, the occurrence of the vacancies) the total number of unfilled vacancies in the membership of the council exceeds one third of the whole number of members; and where an election under subsection (1) above is not held, the vacancy shall be filled at the next ordinary election.

^{F3}(3A)

- (4) Where more than one casual vacancy in the office of councillor of a district in which councillors are elected by thirds is filled at the same election, the person elected by the smallest number of votes shall be deemed to be elected in place of the councillor who would regularly have first retired, and the person elected by the next smallest number

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of votes shall be deemed to be elected in place of the councillor who would regularly have next retired and so with respect to the others; and if there has not been a contested election, or if any doubt arises, the order of retirement shall be determined by lot.

(5) Where an election to fill one or more casual vacancies in the office of councillor of any such district is combined with an ordinary election of councillors, the following provisions shall apply—

(a) where an election is contested—

- (i) the persons who are elected by the smallest numbers of votes, or if any relevant votes are equal such persons as are determined by lot, shall be deemed elected to fill the casual vacancies;
- (ii) if the persons elected to fill the casual vacancies will hold office for different periods, the person elected by the smallest number of votes or, if the relevant votes are equal, such person as is determined by lot, shall hold office for the shorter period, and so with respect to the others;

(b) where the election is not contested—

- (i) those declared elected (if fewer than the vacancies to be filled) shall be deemed elected to fill the vacancies in which they will hold office for the longest periods;
- (ii) where there are two or more persons declared elected and they are to fill vacancies in which they will hold office for different periods, any retiring councillors elected shall be deemed elected to fill the vacancies in which they will hold office for the longest period, and the question which of the persons declared elected who are not retiring councillors is to be deemed elected to fill any of the vacancies not filled by retiring councillors shall be determined by lot.

(6) A casual vacancy among parish or community councillors shall be filled by election or by the parish or community council in accordance with rules made under [F4 section 36 of the Representation of the People Act 1983].

(7) Where under this section any question is required to be determined by lot—

- (a) in the case of a contested election, the lot shall be drawn by the returning officer immediately after the question has arisen; and
- (b) in any other case, the lot shall be drawn at the next meeting of the council after the question has arisen, and the drawing shall be conducted under the direction of the person presiding at the meeting.

Textual Amendments

- F1** Words substituted by [Representation of the People Act 1985 \(c. 50, SIF 42\)](#), **ss. 19(6)(c)**, 29 (by [S.I. 1985/1080](#), **art. 4(5)**) it is provided that the amendment made by s. 19(6)(c) shall not have effect for the purposes of any vacancy which occurred before 16.2.87)
- F2** Words repealed by [Local Government Act 1985 \(c. 51, SIF 81:1\)](#), ss. 1, 102, **Sch. 17**
- F3** [S. 89\(3A\)](#) (inserted by [Local Government Act 1985 \(c. 51, SIF 81:1\)](#), s. 84, **Sch. 14 Pt. I para. 10(2)**) repealed by [Education Reform Act 1988 \(c. 40, SIF 41:1\)](#), ss. 231(7), 235(6), 237(2), **Sch. 13 Pt. I**
- F4** Words substituted by [Representation of the People Act 1983 \(c. 2, SIF 42\)](#), s. 206, **Sch. 8 para. 13**

Modifications etc. (not altering text)

- C1** [S. 89](#) excluded by [Local Government Act 1985 \(c. 51, SIF 81:1\)](#), **ss. 84(2)(b)**, 86(9)
- C2** [S. 89](#) modified (8.3.1995) by [S.I. 1995/610](#), **art. 9(4)**

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- S. 89 applied (with modifications)(1.11.1995) by S.I. 1995/1747, **art. 2**
- S. 89 applied (with modifications)(12.7.1995) by S.I. 1995/1769, **art. 12(2)**
- S. 89 modified (12.7.1995) by S.I. 1995/1770, **art. 14(3)**; S.I. 1995/1771, **art. 11(2)**; S.I. 1995/1772, **art. 10(2)**; S.I. 1995/1773, **art. 10(3)**; S.I. 1995/1774, **art. 10(3)**; S.I. 1995/1775, **art. 11(2)**; S.I. 1995/1776, **art. 10(2)**; S.I. 1995/1779, **art. 11(2)**
- S. 89 applied (with modifications)(1.3.1996) by S.I. 1996/507, **art. 10(2)**
- S. 89 applied (with modifications)(19.7.1996) by S.I. 1996/1865, **art. 8(2)**; S.I. 1996/1866, **art. 8(2)**; S.I. 1996/1867, **art. 11(2)**; S.I. 1996/1868, **art. 8(2)**; S.I. 1996/1875, **art. 9(2)**; S.I. 1996/1876, **art. 12(2)**; S.I. 1996/1878, **art. 11(2)**; S.I. 1996/1879, **art. 15(2)**
- C3** S. 89 excluded (26.2.2008) by The Cornwall (Structural Change) Order 2008 (S.I. 2008/491), **art. 12(2)**
- C4** S. 89 excluded (26.2.2008) by The Shropshire (Structural Change) Order 2008 (S.I. 2008/492), **art. 12(2)**
- C5** S. 89 excluded (5.3.2008) by The Cheshire (Structural Changes) Order 2008 (S.I. 2008/634), **art. 5(3)**
- C6** S. 89 excluded (5.3.2008) by The Cheshire (Structural Changes) Order 2008 (S.I. 2008/634), **art. 12(2)**
- C7** S. 89 excluded (28.3.2008) by The Bedfordshire (Structural Changes) Order 2008 (S.I. 2008/907), **art. 5(3)**
- C8** S. 89 excluded (28.3.2008) by The Bedfordshire (Structural Changes) Order 2008 (S.I. 2008/907), **art. 12(2)**
- C9** S. 89 excluded (28.3.2008) by The Bedfordshire (Structural Changes) Order 2008 (S.I. 2008/907), **art. 23(2)**
- C10** S. 89 excluded (28.3.2008) by The Bedfordshire (Structural Changes) Order 2008 (S.I. 2008/907), **art. 24(2)**
- C11** S. 89 excluded (25.3.2010) by The Norwich and Norfolk (Structural Changes) Order 2010 (S.I. 2010/997), arts. 1, **11(2)**
- S. 89 excluded (25.3.2010) by The Exeter and Devon (Structural Changes) Order 2010 (S.I. 2010/998), arts. 1, **11(2)**
- C12** S. 89(1) excluded (29.8.2008) by The Local Government (Structural Changes) (Transitional Arrangements) Regulations 2008 (S.I. 2008/2113), **reg. 13**
- C13** S. 89(3) modified (5.11.2008) by The Local Elections (Ordinary Day of Elections in 2009) Order 2008 (S.I. 2008/2857), **art. 5**
- C14** S. 89(3) applied (with modifications) (13.3.2004) by The Local Elections (Ordinary Day of Election 2004) Order 2004 (S.I. 2004/222), **art. 3(a)**

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