



Local Government (Scotland) Act 1973

1973 CHAPTER 65

PART III

GENERAL PROVISIONS AS TO MEMBERS OF LOCAL AUTHORITIES AND PROCEEDINGS

Resignation and Vacation of Office

34 Resignation.

A member of a local authority may, at any time, resign his office as member by a notice in writing signed by him and delivered to the proper officer of the authority, and his resignation shall take effect upon the expiration of three weeks after the date of delivery of the notice or upon such earlier date, if any, as may be stated in the notice as the date on which the resignation is to take effect.

Modifications etc. (not altering text)

C1 S. 34 applied (temp. from 6.4.1995 until 1.4.1996) by S.I. 1995/789, art. 2, Sch. para. 3

35 Vacation of office by failure to attend meetings.

- (1) Subject to subsections [F1(2) to (4)] below, if a member of a local authority fails throughout a period of six consecutive months to attend any meeting of the authority, he shall, unless the failure was due to some reason approved by the authority, cease to be a member of the authority.
- (2) Attendance as a member at a meeting of any committee or sub-committee of the authority, or at a meeting of any joint committee, joint board or other body by whom for the time being any of the functions of the authority are being discharged, and attendance as representative of the authority at a meeting of any body of persons, shall be deemed for the purposes of subsection (1) above to be attendance at a meeting of the authority.

Status: Point in time view as at 01/10/2009.

Changes to legislation: Local Government (Scotland) Act 1973, Cross Heading: Resignation and Vacation of Office is up to date with all changes known to be in force on or before 08 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) A member of any branch of Her Majesty's naval, military or air forces when employed during war or any emergency on any naval, military or air force service, and a person whose employment in the service of Her Majesty in connection with war or any emergency is such as, in the opinion of the Secretary of State, to entitle him to relief from disqualification on account of absence, shall not cease to be a member of a local authority by reason only of a failure to attend meetings of the local authority if the failure is due to that employment.

[^{F2}(4) The absence of a member of a local authority from a meeting of the authority during a period of suspension imposed on the member under section 103F or 103G of this Act or section 19 or 21(2) of the Ethical Standards in Public Life etc. (Scotland) Act 2000 (asp 7) is not, for the purposes of this section, a failure to attend the meeting.]

Textual Amendments

F1 Words in s. 35(1) substituted (1.5.2003) by 2000 asp 7, ss. 29(1)(a), 37 (with s. 31); S.S.I. 2003/74, art. 2(2)(c)

F2 S. 35(4) inserted (1.5.2003) by 2000 asp 7, ss. 29(1)(b), 37 (with s. 31); S.S.I. 2003/74, art. 2(2)(c)

Modifications etc. (not altering text)

C2 S. 35 applied (temp. from 6.4.1995 until 1.4.1996) by S.I. 1995/789, art. 2, Sch. para. 3

36 Casual vacancies.

For the purpose of filling a casual vacancy in any office for which an election is held under [^{F3}the Local Government etc. (Scotland) Act 1994], the date on which the vacancy is to be deemed to have occurred shall be—

- (a) in the case of death, on the date of death;
- (b) in the case of resignation, the date on which the notice of resignation takes effect;
- (c) in the case of the election of a person who is not qualified to be elected or who is disqualified for being elected a member of a local authority, or of a member of a local authority ceasing to be qualified to be a member or becoming disqualified for being a member, the date on which the office has been declared vacant by the sheriff principal [^{F4}or become vacant by operation of section 19(3)(a) (effect of disqualification) of the Ethical Standards in Public Life etc. (Scotland) Act 2000 (asp 7).] or the date of the determination of any appeal;
- (d) in the case of a full number of members of a local authority not being elected at an election, the [^{F5}day on which the poll was held at] the election;
- (e) in the case of an election being declared void on an election petition, the date of the decision of the election court;
- (f) in the case of a vacancy arising from any other cause, not being a vacancy arising in ordinary course, such date as the local authority may determine.

Textual Amendments

F3 Words in s. 36 substituted (1.4.1996) by S.I. 1996/739, art. 7(1), Sch. 1 Pt. I para. 3(2)

F4 Words in s. 36(c) inserted (1.5.2003) by 2000 asp 7, ss. 29(2), 37, (with s. 31); S.S.I. 2003/74, art. 2(2)(c)

Status: Point in time view as at 01/10/2009.

Changes to legislation: Local Government (Scotland) Act 1973, Cross Heading: Resignation and Vacation of Office is up to date with all changes known to be in force on or before 08 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)

F5 Words in s. 36(d) substituted (retrospectively) by [Scottish Local Government \(Elections\) Act 2002 \(asp 1\), s. 4\(4\)\(6\)](#)

37 Filling of casual vacancies.

(1) On a casual vacancy occurring in the office of councillor, an election to fill the vacancy shall be held within three months from the date on which the vacancy is deemed to have occurred, and the [^{F6}day on which the poll is to be held at the] election to fill the vacancy shall be fixed by the returning officer.

(2) Where a casual vacancy in any such office occurs within six months before the [^{F7}relevant] date ^{F8} . . . , 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.

[^{F9}(2A) For the purposes of subsection (2) above, the “relevant date” is—

- (a) the first Thursday in May in the year in which the next ordinary election is to be held; or
- (b) where, by virtue of subsection (1)(b) of section 43 of the Representation of the People Act 1983 (c.2), the poll at that election is to be held on another day, that other day.]

(3) A person elected to fill a casual vacancy in the office of councillor shall hold office until the day of the next ordinary election.

Textual Amendments

- F6** Words in s. 37(1) substituted (retrospectively) by [Scottish Local Government \(Elections\) Act 2002 \(asp 1\), s. 4\(5\)\(6\)](#)
- F7** Word in s. 37(2) inserted (22.1.2002) by [Scottish Local Government \(Elections\) Act 2002 \(asp 1\), s. 3\(2\)\(a\)](#)
- F8** Words in s. 37(2) repealed (22.1.2002) by [Scottish Local Government \(Elections\) Act 2002 \(asp 1\), s. 3\(2\)\(b\)](#)
- F9** S. 37(2A) inserted (22.1.2002) by [Scottish Local Government \(Elections\) Act 2002 \(asp 1\), s. 3\(3\)](#)

Modifications etc. (not altering text)

- C3** S. 37(1)(3) applied (temp. from 6.4.1995 to 1.4.1996) by S.I. 1994/3255, art. 3, [Sch. 1 para. 1](#)
- C4** S. 37(1) excluded (22.1.2002) by [Scottish Local Government \(Elections\) Act 2002 \(asp 1\), s. 3\(1\)\(b\)](#)
- C5** S. 37(2) excluded (22.1.2002) by [Scottish Local Government \(Elections\) Act 2002 \(asp 1\), s. 3\(1\)\(a\)](#)

Status:

Point in time view as at 01/10/2009.

Changes to legislation:

Local Government (Scotland) Act 1973, Cross Heading: Resignation and Vacation of Office is up to date with all changes known to be in force on or before 08 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.