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Representation of the People Act 1983

1983 CHAPTER 2

PART I

PARLIAMENTARY AND LOCAL GOVERNMENT FRANCHISE AND ITS EXERCISE

Conduct of local government elections in Scotland

41 Returning officers: local elections in Scotland.

- (1) Every local authority in Scotland shall appoint an officer of the authority to be the returning officer for each election of councillors for the authority, and if the person so appointed dies, resigns or is for any other reason unable to act, the authority may appoint another person to be returning officer at that election.
- (2) A returning officer in Scotland appointed under this Act may by writing under his hand appoint one or more persons to discharge all or any of his functions.
- (3) A local government election in Scotland is not liable to be questioned by reason of a defect in the title, or want of title, of the person presiding at or conducting the election, if that person was then in actual possession of, or acting in, the office giving the right to preside at or conduct the election.

Modifications etc. (not altering text)

C1 S. 41 extended (11.3.1999) by [S.I. 1999/787](#), [art. 14](#)

42 Local elections in Scotland.

- (1) Elections of councillors for local government areas in Scotland shall be conducted in accordance with rules made by the Secretary of State.

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- (2) Rules made under this section shall apply the parliamentary elections rules in Schedule 1 to this Act subject to such adaptations, alterations and exceptions as seem appropriate to the Secretary of State.
- (3) Without prejudice to the generality of subsection (2) above, rules made under this section shall prescribe that the nomination paper of a candidate for election as a councillor for a local government area in Scotland shall contain a statement declaring that the candidate—
- (a) consents to be nominated as a candidate;
 - [^{F1}(b) if elected, will accept office as a councillor and will faithfully perform the duties of the office;]
 - (c) has attained the age of 21 years and is a Commonwealth citizen or citizen of the Republic of Ireland [^{F2}or a relevant citizen of the Union] and not subject to any legal incapacity, and
 - (d) is not subject to any of the disqualifications for office set out in section 31 of the ^{M1}Local Government (Scotland) Act 1973 (disqualifications for office as local authority member).
- (4) The statement mentioned in subsection (3) above shall also contain particulars of the candidate's qualification for office under paragraphs (a) to (d) of section 29(1) of that Act of 1973 (qualifications for office as local authority member), in such form as may be prescribed by rules made under this section.
- (5) All expenditure properly incurred by a returning officer in relation to the holding of an election of a councillor to a local authority shall be paid by the council of that authority, but only (in cases where there is a scale fixed for the purposes of this section by that council) in so far as it does not exceed that scale.
- (6) Before a poll is taken at an election for a councillor for a local government area in Scotland, the council for that area shall, at the request of the returning officer or of any person acting as returning officer, advance to him such reasonable sum in respect of his expenses at the election as he may require.
- (7) Rules made under this section shall be—
- (a) made by statutory instrument;
 - (b) subject to annulment in pursuance of a resolution of either House of Parliament.

Textual Amendments

- F1** S. 42(3)(b) repealed (S.) by [Law Reform \(Miscellaneous Provisions\) \(Scotland\) Act 1990 \(c. 40, SIF 76:2\)](#), s. 74, Sch. 8 Pt. II para. 32, [Sch. 9](#)
- F2** Words in s. 42(3)(c) inserted (6.8.1995) by [S.I. 1995/1948](#), arts. 1(2), 5(2), Sch. 2 paras. 3(d), [6](#)

Modifications etc. (not altering text)

- C2** S. 42(5) modified (S.) by [S.I. 1986/1111](#), [regs. 2](#), 97(1)
- C3** S. 42(5)(6) modified (11.3.1999) by [S.I. 1999/787](#), art. 13(5), [Sch. 5 Pt. I para. 3\(1\)\(c\)](#) (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. 42(5)(6) modified (21.11.2002 except for specified purposes) by [The Scottish Parliament \(Elections etc.\) Order 2002 \(S.I. 2002/2779\)](#), arts. 1, 14(5), [Sch. 5 para. 3\(1\)\(c\)\(2\)](#) (which S.I. was revoked (15.3.2007) by [S.I. 2007/937](#), [art. 2\(a\)](#))

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- S. 42(5)(6) modified (15.3.2007 except for specified purposes) by [The Scottish Parliament \(Elections etc.\) Order 2007 \(S.I. 2007/937\)](#), arts. 1, 14(5), **Sch. 5 para. 3(1)(c)**
- C4** S. 42(6) modified (S.) by [S.I. 1986/1111](#), **regs. 2, 97(1)(2)**
- C5** S. 42(6) modified (11.3.1999) by [S.I. 1999/787](#), art. 13(5), **Sch. 5 Pt. I para. 3(2)** (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)**))

Marginal Citations

- M1** 1973 c. 65.

43 Day of ordinary local elections in Scotland, and other timing provisions.

[^{F3}(1) In every year in which ordinary elections of councillors for local government areas in Scotland are held, the [^{F4}day on which the poll is held at an] election is—

- (a) the first Thursday in May; or
- (b) such other day as may be fixed by the Secretary of State by order made by statutory instrument not later than 1st February in the year preceding the year or, in the case of an order affecting more than one year, the first year in which the order is to take effect.

(1A) An order made under subsection (1)(b) above shall be subject to annulment in pursuance of a resolution of either House of Parliament.]

(2) Where—

- (a) the day or the last day on which anything is required or permitted to be done by any rules under section 42 above, or
- (b) the day on which anything is required to be done under subsection (1) above ^{F5} . . . or section 45(1) below,

is a [^{F6}Saturday] Sunday, [^{F6}Christmas Eve] Christmas Day, New Year's Day, [^{F6}Maundy Thursday] Good Friday, bank holiday, or a public holiday, or a day appointed for public thanksgiving or mourning, the requirement or permission shall be deemed to relate to the first day thereafter which is not one of the days before mentioned, but, save as aforesaid or as otherwise expressly provided in this Act or by the ^{M2}Local Government [^{F7}etc. (Scotland) Act 1994], in reckoning a number of days [^{F8}for the purposes of this Part of this Act in so far as it relates to the conduct of local government elections in Scotland], the days before specified shall not be excluded.

(3) Where [^{F9}the day on which the poll is held at] an election is postponed under subsection (2) above, the day on which the election is held shall be treated as the day of [^{F10}poll] for all purposes of this Act or that Act of [^{F11}1994] relating to that election.

(4) Where a day is declared to be a bank holiday or day of public thanksgiving or mourning, nothing in subsection (3) above affects the validity of any act done in relation to an election before or on the date of the declaration.

Textual Amendments

- F3** S. 43(1)(1A) substituted (S.) (1.4.1996) for s. 43(1) by [1994 c. 39, ss. 6, 7\(2\)](#); [S.I. 1996/323](#), art. 4(1) (a), **Sch. 1**
- F4** Words in s. 43(1) substituted (S.) (retrospectively) by [Scottish Local Government \(Elections\) Act 2002 \(asp 1\)](#), s. 4(3)(a)(6)(a)
- F5** ", or section 44(2)" repealed by [Representation of the People Act 1985 \(c. 50, SIF 42\)](#), s. 28, **Sch. 5**

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- F6** Words inserted by [Representation of the People Act 1985 \(c. 50, SIF 42\), s. 19\(3\)](#)
- F7** Words in s. 43(2) substituted (S.) (retrospective to 8.11.1994) by [Scottish Local Government \(Elections\) Act 2002 \(asp 1\), s. 4\(3\)\(b\)\(6\)\(b\)](#)
- F8** Words substituted by [Representation of the People Act 1985 \(c. 50, SIF 42\), s. 19\(3\)](#)
- F9** Words in s. 43(3) inserted (S.) (retrospectively) by [Scottish Local Government \(Elections\) Act 2002 \(asp 1\), s. 4\(3\)\(c\)\(i\)\(6\)\(a\)](#)
- F10** Word in s. 43(3) substituted (S.) (retrospectively) by [Scottish Local Government \(Elections\) Act 2002 \(asp 1\), s. 4\(3\)\(c\)\(ii\)\(6\)\(a\)](#)
- F11** Word in s. 43(3) substituted (S.) (retrospective to 8.11.1994) by [Scottish Local Government \(Elections\) Act 2002 \(asp 1\), s. 4\(3\)\(c\)\(iii\)\(6\)\(b\)](#)

Modifications etc. (not altering text)

- C6** S. 43 excluded (S.) (8.11.1994) by [1994 c. 39, ss. 5\(2\), 7\(2\); S.I. 1994/2850, art. 2, Sch. 1](#)

Marginal Citations

- M2** [1973 c. 65.](#)

F12 **44**

Textual Amendments

- F12** S. 44 repealed by [Representation of the People Act 1985 \(c. 50, SIF 42\), ss. 24, 28, Sch. 4 para. 9, Sch. 5](#)

45 Non-election of local authority etc. in Scotland.

(1) If in Scotland—

- (a) for any reason a local authority or members of a local authority are not elected in accordance with the provisions of this Act and the ^{M3}Local Government (Scotland) Act 1973, and the case is not otherwise provided for, or
- (b) there is for any reason no legally constituted local authority for any area, or
- (c) the number of members of a local authority then in office is less than the quorum ascertained in accordance with the provisions of Schedule 7 to that Act of 1973 (meetings and proceedings of local authorities).

the Secretary of State may direct the holding of an election for filling such vacancies as exist, and the election shall be held as soon as practicable after that, on a date to be fixed by him.

(2) The Secretary of State may in that direction—

- (a) make such provision as appears to him expedient for authorising any person to act in place of a local authority pending the election of members of the authority by an election under subsection (1) above; and
- (b) make such incidental, consequential, transitional or supplemental provision as appears to him to be necessary or proper.

Modifications etc. (not altering text)

- C7** S. 45 applied (with modifications) (temp. from 6.4.1995 to 1.4.1996) by [S.I. 1995/789, art. 2, Sch. para. 7](#)

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S. 45 applied (S.) (13.11.2002 except for specified purposes) by [The Scottish Local Government Elections Rules 2002 \(S.S.I. 2002/457\)](#), rules 1(2), 4, **Sch. 2 rule 48(1)** (which S.I. was revoked (17.2.2007) by [S.S.I. 2007/42](#), art. 6(1) (subject to art. 6(2))

Marginal Citations

M3 1973 c. 65.

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