



Local Government (Scotland) Act 1894

1894 CHAPTER 58

PART II

CONSTITUTION AND ELECTION OF PARISH COUNCILS

8 Establishment of parish councils

A council, in this Act referred to as a parish council, shall be established in every parish.

9 Number of parish councillors for each parish

- (1) The parish council shall consist of a chairman and councillors, and the number of councillors, including the chairman, shall be such (and in the case of a parish partly landward and partly burghal in such proportion for the landward and the burghal parts respectively) as may from time to time, with the approval of the Board, be fixed :—
 - (a) In the case of landward parishes, not including any part of the area of a police burgh, by the county council ;
 - (b) In the case of burghal parishes, by the town council;
 - (c) In the case of parishes wholly within a police burgh, by the burgh commissioners; and
 - (d) In the case of parishes partly landward and partly burghal, or including the area or part of the area of a police burgh or burghs, by the county council and town council or councils or burgh commissioners jointly. In such case, failing agreement, the number shall be such and in such proportion as may be fixed by the Board.
- (2) In fixing the number of parish councillors, and the proportion for the landward and burghal parts respectively in parishes partly landward and partly burghal, regard shall be had to the powers and duties of the parish council under this Act, and to the population, and special wants and circumstances, of the parish, and to the division of the parish into parish wards, if it is so divided.

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- (3) The number of parish councillors for any parish shall be not fewer than five nor more than thirty-one.

10 Electing body

- (1) Subject to the provisions of this Act, a parish council shall be elected by the following persons, in this Act referred to as the parish electors, namely, the persons registered on the parish council register ; provided that exemption from or failure to make payment of the special rate authorised by this Act, where such rate is due and payable by persons so registered, shall be a disqualification from voting at an election of a parish council, unless such rate is paid during the period of one year subsequent to service of the demand note requiring payment of the same.

It shall be the duty of the clerk of the parish council, one week before the time fixed for the nomination of candidates for any election of parish councillors in the parish, to prepare a list of parish electors who have failed to make payment of the special rate within such period of one year, and to transmit a copy of such list forthwith to the returning officer ; and any votes tendered by any elector named in such list shall at any such election be disallowed, unless the elector verifies, prior to the close of the poll, his right to vote by the production of a receipt duly signed and dated within such period.

- (2) Each parish elector may at any poll for the election of a parish council give one vote, and no more, for each of any number of candidates not exceeding the number to be elected.
- (3) A poll for the election of a parish council shall be taken by ballot.

11 Married women not disqualified

A woman otherwise possessing the qualification for being registered on any county council or municipal register of electors shall not be disqualified by marriage from being registered on a county council, municipal, or parish council register, provided that a husband and wife shall not both be registered in respect of the same property.

12 Registration of parish electors

With respect to the registration of parish electors, the following provisions shall have effect:—

- (1) A county council register, exclusive of such portions thereof as relate to police burghs, shall be so framed and printed as that, in addition to the other requirements of the law, the county electors may be distinguished therein according to parish wards, if and where a landward parish, or the landward part of a parish partly landward and partly burghal, is divided into parish wards.
- (2) A municipal register shall be so framed and printed as that, in addition to the other requirements of the law, the municipal electors may be distinguished therein—
- (a) according to parishes, if and where a burgh or police burgh comprises two or more parishes or parts of two or more parishes; and
 - (b) according to parish wards (1) if and where a burghal parish or the burghal part of a parish partly landward and partly burghal is divided into parish wards; and (2) if and where a landward parish or a part of any parish is co-extensive with a police burgh or part thereof and is divided into parish wards.

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- (3) Where the boundary of a burgh for municipal purposes extends beyond its boundary as ascertained, fixed, or determined for police purposes under the provisions contained in any general or local Act of Parliament, the assessor shall, in preparing the municipal register, prefix a distinctive mark to the numbers or names of any municipal electors for the area which is without the police but within the municipal boundary, and the names of any such electors shall not be inserted by the town clerk in the copy of the register provided for by this section, and such electors shall not be entitled to vote as parish electors in respect of their qualification as municipal electors, but may vote as parish electors within a county if duly qualified.
- (4) Nothing in any Act shall prevent a person, if duly qualified, from being registered in more than one parish council register.
- (5) The assessors or other persons charged with the preparation of the county council and municipal registers respectively shall insert in such registers the names of persons duly qualified as parish electors in more than one parish in respect of each of such qualifications, but shall prefix a distinctive mark indicating where such insertion is for the purposes of the parish council register only.
- (6) It shall be lawful to object to the insertion or omission of the distinctive marks in this section mentioned, as nearly as may be in the same manner, and subject to the same provisions as to appeal and otherwise, as in the case of any other entry in or omission from such registers.
- (7) An elector to whose number or name as entered in such registers the distinctive mark, as in sub-section five of this section mentioned, is prefixed, shall not, in respect of such entry, be deemed to be registered as a parliamentary or county or municipal elector, and shall not be entitled to vote in respect of such entry at a parliamentary or county council or municipal election.
- (8) From time to time, as soon as a county council or municipal register is completed, the county clerk or town clerk, as the case may be, shall furnish to the clerks of the several parish councils of parishes wholly or partly within the county or burgh or police burgh a certified copy of so much of such register as relates to their respective parishes, and such copy or copies, so far as relating to a parish, shall, subject to the provisions of section ten of this Act, constitute the parish council register for the parish.

13 Parish wards

- (1) The landward part and the burghal part of a parish partly landward and partly burghal shall respectively be parish wards, or shall respectively be divided into two or more parish wards, of the parish.
- (2) A police burgh or any part thereof, so far as within a parish, shall be a parish ward, or shall be divided into two or more parish wards, of the parish.
- (3) A county council electoral division (exclusive of any police burgh or part of a police burgh comprised therein), so far as within a parish, shall be a parish ward, or shall be divided into two or more parish wards, of the parish.
- (4) A county council, on being satisfied after due local inquiry, that within the county, exclusive of any police, burgh, different portions of the population of any landward parish, or of any landward part of a parish partly landward and partly burghal, are so situated or have such interests as to make it desirable that they should be separately represented on the parish council, may from time to time resolve and, by order under

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their seal, determine that such parish, or landward part of a parish, be divided, subject to the provisions of this section, into such and so many parish wards as they may deem expedient, and shall in such order designate each parish ward, and define its boundaries, and shall thereafter by order assign the number of parish councillors to be elected by the parish electors therein.

- (5) The town council of a burgh or burgh commissioners of a police burgh may, if they think fit, from time to time resolve, and by order under their seal determine that any parish or part of a parish within the burgh or police burgh be divided into such and so many parish wards as they may deem expedient, and shall, in making such division, have due regard to the existing division (if any) of the burgh or police burgh into municipal wards, and shall in such order designate each parish ward and define its boundaries, and shall thereafter by order assign the number of parish councillors to be elected by the parish electors therein.
- (6) Section eleven of the Burgh Police (Scotland) Act, 1892, shall, subject to the exceptions contained in section five (a) and in Schedule Two thereof, be construed to include, and shall, notwithstanding any local Act to the contrary, include, the division into wards, and the revision, alteration, extension, or contraction of the boundaries of the wards, of a burgh, for parliamentary and municipal as well as for police purposes, and that, whether an application has been made for the revision of the boundaries of the burgh or not, provided that any such revision, alteration, extension, or contraction shall not affect the boundaries of any division of such burgh for the purpose of returning a member to serve for such division in Parliament. In this sub-section the expression " burgh " , includes police burgh.
- (7) Any county council or town council or burgh commissioners respectively may by order under their seal in terms of the foregoing sub-sections revoke or modify any previous order, or, within the county or burgh or police burgh, cancel or alter any division of a parish into wards in. force at the commencement of this Act, but every such division shall, so far as consistent with the provisions of this Act, remain in force until so cancelled or altered.
- (8) A copy of every order made under this section shall be transmitted to the Board within fourteen days after it is made.
- (9) In a parish divided into parish wards, the parish councillors for each parish ward shall be separately elected.

14 Regulations as to election of parish councillors in landward parish, &c

With respect to the second and subsequent elections of parish councillors for a landward parish, or for the landward part of a parish partly landward and partly burghal, the following provisions shall, except within parishes or parts of parishes co-extensive with police burghs or parts of police burghs, have effect:—

- (1) The election of such parish councillors shall take place in every third year, beginning with the year one thousand eight hundred and ninety-eight, on the same day and, as nearly as may be, in the same manner, in the same places, and with the same returning and presiding officers and clerks, as the election of county councillors for the county in which such parish or part of a parish, as the case may be, is situated, or if there is a contested election for parish councillors, but there is no contested election for county councillors in the county council electoral division or divisions corresponding to such parish or part of a parish, as the case may be, as if there were a contested election for county councillors in such electoral division or divisions.

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- (2) The expenditure incurred in the election of such parish councillors as ascertained and apportioned by agreement between the county council and the parish council or councils concerned, or, failing agreement, by order of the Board, shall be a charge upon the poor rate levied in such parish, and shall be paid to the county council by such parish council or councils.
- (3) From and after such second election, the term of office of such parish councillors shall be three years, and in every third year the whole number of such parish councillors shall go out of office, and their places shall be filled by election.
- (4) The enactments regulating the election of county councillors shall, with the necessary variations and subject to the provisions of this Act, extend and apply to the election of such parish councillors.
- (5) If in any case such parish, or part of a parish, is situated in more counties than one, the provisions of this section shall apply with the necessary variations and subject to such regulations as may be made by any order of the Board, and such regulations shall have effect as if they were contained in this Act.
- (6) It shall be the duty of the county council of every county to make due provision for the election of such parish councillors.
- (7) A county council may refer to the Board any question that may arise as to the performance of the duty of such county council under this section, and the determination of the Board, as signified by order thereon, shall be final.

15 Regulations as to election of parish councillors in burghal parish, &c

With respect to the second and subsequent elections of parish councillors for a burghal parish, or for the burghal part of a parish partly landward and partly burghal, the following provisions shall have effect:—

- (1) The election of such parish councillors shall take place in every third year, beginning with the year one thousand eight hundred and ninety-eight, on the same day and, as nearly as may be, in the same manner, in the same places, and with the same returning and presiding officers and clerks, as the election of town councillors for such burgh, or if there is a contested election for parish councillors, but there is no contested election for town councillors in such burgh or in any ward thereof (if it is divided into wards), as if there were a contested election for town councillors in such burgh, or in a ward or wards thereof.
- (2) The expenditure incurred in the election of such parish councillors, as ascertained and apportioned by agreement between the town council and the parish council or councils concerned, or, failing agreement, by order of the Board, shall be a charge upon the poor rate levied in such parish, and shall be paid to the town council by such parish council or councils.
- (3) From and after such second election the term of office of such parish councillors shall be three years, and in every third year the whole number of such parish councillors shall go out of office, and their places shall be filled by election: Provided that the term of office of parish councillors elected for such burghal part of a parish shall not commence until the first Tuesday of December following their election.

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- (4) The enactments regulating the election of town councillors shall, with the necessary variations and subject to the provisions of this Act, extend and apply to the election of such parish councillors.
- (5) If in any case the burghal part of a parish is situated in more burghs than one, the provisions of this section shall apply with the necessary variations, and subject to such regulations as may be made by any order of the Board, and such regulations shall have effect as if they were contained in this Act.
- (6) It shall be the duty of the town council of every burgh to make due provision for the election of such parish councillors.
- (7) A town council may refer to the Board any question that may arise as to the performance of the duty of such town council under this section, and the determination of the Board, as signified by order thereon, shall be final. The foregoing provisions shall apply to the second and subsequent elections of parish councillors in parishes or parts of parishes co-extensive with police burghs or parts thereof, with the omission of the words "burghal," and with the substitution of the expression " police burgh " for " burgh, " and " burgh commissioners" for " town council " or " town councillors."

16 Notice of election and nomination papers, &c

The enactments by the principal Act or this Act applied to the election in a county of county councillors and in a county (except within parishes or parts of parishes co-extensive with police burghs or parts of police burghs) of parish councillors, shall, for the purposes of such election, be construed or amended so as to incorporate the following provisions, which are hereby enacted, that is to say:—

- (1) The notice of election shall be given by the returning officer not later than four o'clock afternoon on the Third Tuesday preceding the day of election, and the nomination papers shall be lodged with the returning officer at any time not later than four o'clock afternoon on the second Tuesday preceding the day of election; and sub-section four of section thirty of the principal Act is hereby repealed. Every nomination paper shall be signed by the candidate nominated or by some person duly authorised in that behalf.
- (2) It shall not be necessary to publish the names of candidates for a parish council elsewhere than in the parish, but the returning officer may, if he think it expedient, publish them in any manner in which he publishes the names of candidates for the county council.
- (3) Any intimation made to a returning officer of the nomination of a candidate for election shall be competently withdrawn by giving notice of withdrawal to the returning officer not later than four o'clock afternoon on the Tuesday immediately preceding the day of election, and such notice of withdrawal shall be signed by the person nominated or by some person duly authorised in that behalf, provided that no such withdrawal shall be competent when its effect would be to reduce the total number of persons nominated for such election in a county electoral division or parish or parish ward below the number necessary to supply the vacancies to be filled, and provided also that such notices shall take effect in the order in which they are delivered.

17 Powers and duties of returning officer

- (1) A returning officer shall make and publish such arrangements as he shall think fit for the purpose of enabling nomination papers for the election of parish councillors, and

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notices of withdrawal, to be obtained, and when filled up to be received and dealt with, at some place within or adjoining the parish, and for that purpose may, by writing under his hand, delegate such of his powers as he shall think necessary to the clerk of the parish council of the parish or other fit person.

- (2) The returning officer or officers, as the case may be, shall after an election give intimation in writing forthwith to the clerk of the parish council of the persons elected as parish councillors, and the said clerk shall in each year, by notice in writing to- each parish councillor, summon the statutory meeting of the parish council. The notice shall state the hour and place of meeting.
- (3) A nomination paper shall be competently signed by any two parish electors entitled to vote for the candidate nominated.
- (4) The intimation of nomination, and notice of withdrawal respectively, may be in the form of the Second and Third Schedules to this Act annexed.

18 Supplemental provision as to elections

If a parish council are not elected at the time at which they ought to be elected, or if an insufficient number of councillors is elected, or if a parish council become unable to act by reason of deficiency in the number of councillors, whether from failure to elect or otherwise, the Board may order, at such time and in such manner as seems expedient, a new election of a councillor or councillors for the parish or for a ward or wards thereof, and shall by order make such provision as seems expedient for authorising any person to act temporarily in the place of the parish council. If two or more candidates receive an equal number of votes, being more than can be elected, the returning officer shall have the casting vote.

19 Office of parish councillor and regulations regarding parish council

- (1) A parish council shall be elected from among the parish electors.
- (2) A parish council may, subject to the provisions of this Act, from time to time make, vary, and revoke such regulations as they think fit with respect to the summoning notice, time, place, and management of their meetings, or of the meetings of any committee of the council, and generally with respect to the conduct of their business: provided that a casual vacancy in a parish council or a vacancy in the office of chairman shall not be filled unless notice, specifying that such vacancy is to be considered, has been issued to each councillor at least seven days before the meeting. A parish council may appoint a clerk; but failing such appointment the inspector of the poor of the parish shall act as clerk of the parish council, and where no clerk is - appointed, any reference in this Act to the clerk of the parish council shall be deemed to include a reference to the inspector of the poor of the parish. Such clerk (if any) shall be paid such reasonable salary as the parish council may think proper, and shall hold office during the pleasure of the council.
- (3) The quorum of a parish council shall be one fourth of the whole number of the council, but shall in no case be less than three.
- (4) Subject to the provisions of this Act, a casual vacancy in a parish council, or in any office to which the parish council appoint a representative from their own number, caused by death, resignation, or disqualification, shall, as soon as practicable, be filled by the parish council, but the person filling any such vacancy shall hold office so long

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only as the vacating councillor would have retained the same if such vacancy had not occurred.

- (5) The parish council shall elect a chairman from their own number and should the chairman be absent from any meeting of the council the councillors shall appoint one of themselves to be chairman of the meeting, and should a vacancy occur in the office of chairman during the tenure of office of the council it shall be supplied by a new appointment, and at every meeting the chairman shall have a deliberative, as also in cases of equality a casting, vote.
- (6) The term of office of such chairman shall not extend beyond the next statutory meeting after his election, and his place shall be filled by election at a meeting of the parish council, in this Act referred to as the statutory meeting, to be held in each year after the year one thousand eight hundred and ninety-five on any lawful day within ten days after the first Tuesday of the month of December. The chairman shall be eligible for re-election.
- (7) The representative from a parish council on a district committee of a county council, or on the county council sitting as a district committee where a county is not divided into districts, shall, subject to the provisions of section seventy-eight of the principal Act, be appointed annually at the statutory meeting of the parish council from their own number: Provided always that, in the case of parishes partly landward and partly burghal, he shall be appointed by the landward committee from their own number.

20 Disqualification for parish councils

- (1) A person shall be disqualified for being elected, and for being, a member of a parish council, if and while he—
 - (a) holds any office or place of profit under the parish council or any committee thereof, or
 - (b) has directly or indirectly, by himself or his partner, any share or interest in any contract or employment with, by, or on behalf of, the parish council or any committee thereof.
- (2) But a person shall not be disqualified, or be deemed to have any share or interest in such a contract or employment, by reason only of his having any share or interest in—
 - (a) any lease, sale, or purchase of land, or water, or right of water supply, or any agreement for the same; or
 - (b) any agreement for the loan of money, or any security for the payment of money only ; or
 - (c) any newspaper in which any advertisement relating to the affairs of the parish council or any committee thereof is inserted; or
 - (d) any company which contracts with the parish council, or any committee thereof, for lighting or supplying with water, or insuring against fire, any property of the parish council; or
 - (e) any contract with the council for the supply from land, of which he is owner or occupier, of stone, gravel, or other materials for making or repairing highways or bridges, or for the transport of materials for the repair of roads or bridges in his own immediate neighbourhood; or
 - (f) any railway company or any company incorporated by Act of Parliament or Royal Charter, or under the Companies Acts, 1862 to 1890:

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Provided that no parish councillor shall vote or act in any matter in which he has a pecuniary interest.

- (3) No person shall be disqualified by sex or marriage for being elected, or being, a member of a parish council, or for being appointed a representative of that council on a district committee of a county council, or on a county council where a county is not divided into districts.