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STATUTORY INSTRUMENTS

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**1994 No. 3255 (S.183)**

**LOCAL GOVERNMENT, SCOTLAND  
REPRESENTATION OF THE PEOPLE**

**The Local Government (Transitional Election  
Arrangements) (Scotland) Order 1994**

<i>Made</i>	- - - -	<i>13th December 1994</i>
<i>Laid before Parliament</i>		<i>16th December 1994</i>
<i>Coming into force</i>	- -	<i>6th January 1995</i>

The Secretary of State, in exercise of the powers conferred on him by section 181(1) and (2) of the Local Government etc. (Scotland) Act 1994(1), and of all other powers enabling him in that behalf, hereby makes the following Order:

**Citation, commencement and effect**

1. This Order may be cited as the Local Government (Transitional Election Arrangements) (Scotland) Order 1994, shall come into force on 6th January 1995 and shall cease to have effect on 1st April 1996.

2. In this Order—

“the 1973 Act” means the Local Government (Scotland) Act 1973(2);

“the 1983 Act” means the Representation of the People Act 1983(3);

“the 1986 Regulations” means the Representation of the People (Scotland) Regulations 1986(4);

“the 1986 Rules” means the Scottish Local Elections Rules 1986(5);

“the 1994 Act” means the Local Government etc. (Scotland) Act 1994;

“new local authority” means a council in respect of which an ordinary election of councillors is to take place on 6th April 1995 in terms of section 5(2) of the 1994 Act.

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(1) 1994 c. 39.  
(2) 1973 c. 65.  
(3) 1983 c. 2.  
(4) S.I. 1986/1111, amended by S.I. 1990/629, 1991/1226 and 1992/834.  
(5) S.I. 1986/2213, amended by S.I. 1990/262.

### **Transitional arrangements for elections to new local authorities**

3. For the purpose of the election of councillors to a new local authority on 6th April 1995 and of any election to fill a casual vacancy in the membership of a new local authority taking place between that date and 1st April 1996, the provisions specified in Schedule I to this Order shall apply.

4. For the purpose of the election of councillors to a new local authority on 6th April 1995 and of any election to fill a casual vacancy in the membership of a new local authority taking place between that date and 1st April 1996, the 1983 Act shall (subject to section 5(2) of and paragraph 2 of Schedule 2 to the 1994 Act and to the modifications referred to in articles 5, 6 and 7 below) apply and in respect of those provisions of that Act specified in column 1 of Schedule II to this Order, their application shall be subject to the modifications in column 2 of that Schedule.

5. For the purpose of the election of councillors to a new local authority on 6th April 1995, in the application of the 1983 Act in terms of article 4 above, in respect of those provisions of that Act specified in column 1 of Schedule III to this Order, their application shall be subject to the modifications in column 2 of that Schedule.

6. For the purpose of any election to fill a casual vacancy in the membership of a new local authority taking place between 6th April 1995 and 1st April 1996, in the application of the 1983 Act in terms of article 4 above, in respect of those provisions of that Act specified in column 1 of Schedule IV to this Order, their application shall be subject to the modifications in column 2 of that Schedule.

7. For the purpose of any election to fill a casual vacancy in the membership of a new local authority taking place between 15th February 1996 and 1st April 1996, in the application of the 1983 Act in terms of articles 4 and 6 above, the modification to section 10 of the 1983 Act specified in Schedule II to this Order, shall be omitted.

8.—(1) For the purpose of the election of councillors to a new local authority on 6th April 1995 and of any election to fill a casual vacancy in the membership of a new local authority taking place between that date and 16th February 1996, the provisions of the 1986 Regulations specified in column 1 of Part 1 of Schedule V to this Order shall apply subject, where specified, to the modifications in column 2 of that part of that Schedule.

(2) For the purpose of any election to fill a casual vacancy in the membership of a new local authority taking place between 15th February 1996 and 1st April 1996, the provisions of the 1986 Regulations specified in column 1 of Part 2 of Schedule V to this Order shall apply subject, where specified, to the modifications in column 2 of that part of that Schedule.

(3) For the purpose of the election of councillors to a new local authority on 6th April 1995 and of any election to fill a casual vacancy in the membership of a new local authority taking place between that date and 1st April 1996, the provisions of the 1986 Rules specified in column 1 of Part 3 of Schedule V to this Order shall apply—

- (a) subject, where specified, to the modifications in column 2 of that part of that Schedule; and
- (b) subject to article 9 below.

9. For the purpose of the election of councillors to a new local authority on 6th April 1995 and of any election to fill a casual vacancy in the membership of a new local authority taking place between that date and 1st April 1996, any reference in the Appendix of Forms to the 1986 Rules (and in Schedule 3 to the 1986 Rules) to the area of a region or a district or to the council or councillors of a region or a district (however expressed) shall be construed as a reference to the area of a new local authority or to the council or councillors of a new local authority, as the case may be.

### **Transitional arrangements for registers of electors**

**10.** Notwithstanding the terms of sections 9(1) and 13(1) of the 1983 Act and without prejudice to his duty to publish electors lists on or before 28th November 1994 and to determine all claims for registration and objections to any person's registration, a registration officer appointed by a regional council under section 8 of the 1983 Act shall not be required to publish a register of local government electors for the area of a region or of a district in respect of the period of twelve months beginning 16th February 1995.

**11.** Notwithstanding the terms of sections 9(1), 10 and 13(1) of the 1983 Act, a registration officer appointed by a regional council under section 8 of the 1983 Act shall not be required to prepare nor publish a register of local government electors for the area of a region or of a district in respect of the period of twelve months beginning 16th February 1996.

**12.** For the purpose of regulation 30(2) of the 1986 Regulations, there shall be substituted for the definition of "electoral area" in the application of those Regulations to a registration officer appointed by a regional council under section 8 of the 1983 Act, the following definition:—

““electoral area” means an electoral ward within the meaning of section 5 of the Local Government etc. (Scotland) Act 1994;”.

St Andrew's House, Edinburgh  
13th December 1994

*Fraser of Carmyllie*  
Minister of State, Scottish Office

## SCHEDULE I

Article 3

## 1. The 1973 Act.

Section 29 as modified by paragraph 3 of Schedule 2 to the 1994 Act (Qualifications for nomination, election and holding office)

Section 31(1), (2) and (3)(6) (Disqualifications for nomination, election and holding office)

Section 32 (Proceedings for disqualification)

Section 33 (Validity of acts)

Section 33A(7) (Declaration of acceptance of office)

Section 36 (Casual vacancies)

Section 37(1) and (3) (Filling of casual vacancies).

## 2. The Local Authorities (Councillors) (Declaration of Acceptance of Office) (Scotland) Order 1990(8).

## SCHEDULE II

Article 4

## The 1983 Act

Column 1	Column 2
Section 10 (Preparation of registers)	For section 10 there shall be substituted— “With a view to the preparation of registers, the registration officer shall have regard to any action which he has taken or subsequently takes, with a view to the preparation of the register of parliamentary electors for each constituency or part of a constituency in the area for which he acts and the register of local government electors for the areas of regions and districts or parts of areas of regions and districts included in the area for which he acts, being— (a) the house to house or other sufficient inquiry he has made; (b) the electors lists which he has published on or before 28th November 1994 including any alterations which he subsequently makes to those lists; and (c) all claims for registration and objections to a person’s registration which he determines or has determined.”.
Section 31(2) (Polling districts for local elections)	For section 31(2) there shall be substituted— “In Scotland, for elections of councillors, the returning officer may divide an electoral ward

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(6) Section 31 was relevantly amended by the Local Government and Planning (Scotland) Act 1982 (c. 43), Schedule 3, paragraph 13, the Representation of the People Act 1983 (c. 2), Schedule 8, paragraph 15(b), the Bankruptcy (Scotland) Act 1985 (c. 66), Schedule 7, paragraph 12, and the Local Government and Housing Act 1989 (c. 42), Schedule 12, Part II.

(7) Section 33A was added by the Local Government and Housing Act 1989, section 30(1).

(8) S.I. 1990/956.

Column 1	Column 2
	into polling districts but in the absence of any such division, the polling districts of a ward shall be those which were last designated for the purposes of parliamentary elections under section 18 above.”.
Section 41	After section 41 there shall be inserted—  “ <b>41A.</b> —(1) The council of a region shall place at the disposal of the returning officer acting in respect of a local government area situated in the area of that region, for the purpose of assisting the returning officer in the discharge of his functions in that respect, the services of officers employed by that council.  (2) The council of a district shall, if so requested by the returning officer acting in respect of a local government area wholly or partly situated in the area of that district, place at the returning officer’s disposal, for the purpose of assisting him as mentioned in subsection (1) above, the services of officers employed by that council.”.
Section 42(6) (Advance expenses of elections)	For the words “for that area” substitute the words “which appointed the returning officer”.
Section 54(9) (Payment of expenses of registration)	For the words “local authority” wherever they occur substitute the words “regional council”.
Section 67(7)(b) (Meaning of “appropriate officer”)	For the words after “election,”, to the end substitute the words “the returning officer”.
Section 131(1) (Accommodation for court)	For the words “authority for which the election was held” substitute the words “regional council which appointed the returning officer”.
Section 134(5) (Expenses of sheriff principal)	For the words “authority for which the election was held” substitute the words “returning officer” and for the words “that authority” substitute the words “that returning officer”.
Section 200(1A)(10) (Public notices)	For the words “a local authority” substitute the words “the regional council which appointed the returning officer”.
Section 204(1) (Application to Scotland)	(i) For the definition of “local authority” there shall be substituted (except for the purposes of section 47(2)(b) of the 1983 Act) the following definition:— ““local authority” means a new local authority within

(9) Section 54 was amended by the Representation of the People Act 1985 (c. 50), Schedule 4, paragraph 14.

(10) Section 200 was amended by the Representation of the People Act 1985, Schedule 4, paragraph 68.

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Column 1	Column 2
	<p>the meaning of the Local Government (Transitional Election Arrangements) (Scotland) Order 1994;”;</p> <p>(ii) For the definition of “local government Act” there shall be substituted the following definition:— ““local government Act” means the Local Government etc. (Scotland) Act 1994;”;</p> <p>(iii) For the definition of “local government area” there shall be substituted the following definition:— ““local government area” means the area of a local authority;”;</p> <p>(iv) After the definition of “local government election” there shall be inserted the following definitions:— ““registration officer” means an electoral registration officer appointed under section 8(3) above; “returning officer” in relation to the election of councillors to local authorities on 6th April 1995, means the officer appointed under paragraph 2(1) of Schedule 2 to the Local Government etc. (Scotland) Act 1994 and, in relation to any election to fill a casual vacancy in the membership of a local authority taking place between 6th April 1995 and 1st April 1996, means such officer appointed under section 41(1) above as applied by article 4 of and as modified by article 6 of and Schedule IV to the Local Government (Transitional Election Arrangements) (Scotland) Order 1994.”.</p>

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(9) Section 54 was amended by the Representation of the People Act 1985 (c. 50), Schedule 4, paragraph 14.

(10) Section 200 was amended by the Representation of the People Act 1985, Schedule 4, paragraph 68.

SCHEDULE III

Article 5

The 1983 Act

Column 1	Column 2
Section 41(1) (Appointment of returning officer)	For section 41(1) there shall be substituted— “If the returning officer dies, resigns or is for any other reason unable to act, the council which appointed him may appoint another person to be returning officer at the election of councillors to be held on 6th April 1995.”
Section 41(2) (Discharge of functions of returning officer)	After the word “Act” insert the words “or under the Local Government etc. (Scotland) Act 1994”.

SCHEDULE IV

Article 6

The 1983 Act

Column 1	Column 2
Section 41(1) (Appointment of returning officer)	For section 41(1) there shall be substituted— “Every regional council in Scotland shall appoint an officer of that authority to be the returning officer for any election to fill a casual vacancy in the membership of a local authority whose area falls within the area of that region, taking place between 6th April 1995 and 1st April 1996, and if the person so appointed dies, resigns or is for any other reason unable to act, that council may appoint another person to be returning officer at that election.”
Section 42(5) (Expenses of election)	For the words “of that authority” substitute the words “which appointed him”.

SCHEDULE V

Article 8

PART 1

Column 1	Column 2
<b>1. The 1986 Regulations</b>	
Regulation 4	For the definition of “electoral area”, there shall be substituted the following definition:— ““electoral area” means an electoral ward within the meaning of section 5 of the

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Column 1	Column 2
	Local Government etc. (Scotland) Act 1994;”.
Regulation 5	In paragraph (1)(a), for the words “regulations 37, 38 and 56”, substitute the words “regulation 56”.
Regulations 6 to 29	
Regulations 45 to 50	
Regulation 51 (except paragraph (1A)(11))	
Regulations 52 to 61	
Regulation 62	In paragraphs (4)(a) and(5), for the words “local authority”, substitute the words “regional or islands council”(12).
Regulations 63 to 93	
Regulation 94	In paragraph (1), for the words “authority to which councillors are to be elected”, substitute the words “regional council which appointed that returning officer”.
In Schedule 2, Forms C, K and L	

## PART 2

### 2. The 1986 Regulations

Regulation 4	For the definition of “electoral area”, there shall be substituted the following definition:— ““electoral area” means an electoral ward within the meaning of section 5 of the Local Government etc. (Scotland) Act 1994;”.
Regulations 5 to 50	
Regulation 51 (except paragraph (1A))	
Regulations 52 to 61	
Regulation 62	In paragraphs (4)(a) and (5), for the words “local authority”, substitute the words “regional or islands council”.
Regulations 63 to 93	
Regulations 94	In paragraph (1), for the words “authority to which councillors are to be elected”, substitute

(11) Regulation 51(1A) was inserted by S.I. 1990/629.  
(12) Regulation 62(5) was substituted by S.I. 1992/834.  
(11) Regulation 51(1A) was inserted by S.I. 1990/629.  
(12) Regulation 62(5) was substituted by S.I. 1992/834.

the words “regional council which appointed that returning officer”.

In Schedule 2, Forms A, B, C, K and L

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## PART 3

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### 3. The 1986 Rules

#### Paragraph 4

For the words “means a region, islands area or district”, substitute the words “means a local government area within the meaning of the Representation of the People Act 1983 as applied by the Local Government (Transitional Election Arrangements) (Scotland) Order 1994”.

After paragraph 4, there shall be inserted—

“**4A.** In these rules, any reference to the proper officer of a council shall be taken as a reference to the proper officer of the council which appointed the returning officer.”.

#### Paragraph 5

In Schedule 2—

Rules 1 to 13

Rule 14

In paragraph (2), for the words “regional, islands area or district council, as the case may be”, substitute the words “local government area”.

Rules 15 to 45

Rule 46

In paragraph (1), for the words “region, islands area or district, as the case may be”, substitute the words “local government area”.

Rules 47 and 48

The Appendix of Forms

In the form in the Appendix of Forms headed “NOMINATION PAPER”(13)—

- (a) After the words “Act 1973” in both places on the front of the form where they occur, there shall be inserted in each case the words “as applied by the Local Government (Transitional Election Arrangements) (Scotland) Order 1994”;
- (b) In the declaration as to disqualification for being nominated, after the words

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(13) The form headed “NOMINATION PAPER” was amended by S.I. 1990/262.

“copy of which”, there shall be inserted the word “section”; and

- (c) In Note 1 there shall be inserted after the reference “(S.I.1990/262)” the words “, as said Rules are applied and modified by the Local Government (Transitional Election Arrangements) (Scotland) Order 1994”.

In Schedule 3—

paragraphs 1 to 17

paragraph 18

The words “In the application” to “he is the returning officer” shall not apply.

paragraphs 19 to 23

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## EXPLANATORY NOTE

*(This note is not part of the Order)*

In connection with local government reorganisation in Scotland, elections are to be held on 6th April 1995 to new mainland councils. This Order makes provision in respect of those elections and in respect of elections for casual vacancies occurring in the membership of those new councils between 6th April 1995 and 1st April 1996. The Order applies local election law with necessary modifications and will cease to have effect after 31st March 1996.

Article 3 applies those parts of the Local Government (Scotland) Act 1973 (c. 65) dealing with qualification to stand for and hold office and declaration of acceptance of office.

Article 4 applies the Representation of the People Act 1983 (c. 2) so far as relevant for these elections with certain necessary modifications. In addition to modifications to definitions (in section 204(1) of that Act) essential for the new local government structure, the most important modifications are to section 10 (substituting more relevant factors to be considered when preparing registers), to section 31(2) (giving a power to returning officers to divide electoral wards into polling districts) and to add a section 41A (imposing a duty on regional and district council staff to assist returning officers in the discharge of their functions).

Articles 5, 6 and 7 make modifications to the 1983 Act which are relevant for the elections on 6th April 1995 only, for casual vacancies only and for casual vacancies after 15th February 1996 only respectively.

Article 8 applies the Representation of the People (Scotland) Regulations 1986 (S.I. 1986/1111) and the Scottish Local Election Rules 1986 (S.I. 1986/2213) to these elections so far as relevant and again, where appropriate, subject to modifications essential for the new local government structure. Article 9 provides for a general translation of terms in the Forms to be used for local elections (and in other respects where combined polls take place) to apply them to the new councils.

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(13) The form headed “NOMINATION PAPER” was amended by S.I. 1990/262.

Articles 10 and 11 remove the duty of a registration officer of a region to publish by 15th February 1995 (and to prepare and publish by 15th February 1996) a register of local government electors based on regions or districts. That duty to publish, basing that register on new local government areas, is imposed by sections 9(1) and 13(1) of the 1983 Act as read with the definition of “local government area” as applied and modified by this Order.

Article 12 amends the duty of a registration officer of a region in the publication of the register of parliamentary electors to have regard as appropriate to new electoral wards rather than existing electoral areas.