



Scottish Local Government (Elections) Act 2002

2002 asp 1

New electoral procedures

5 Pilot schemes for local elections **S**

(1) Where—

- (a) a local authority submit to the Scottish Ministers a proposal that a scheme under this section should apply to particular local government elections held in the authority's area; and
- (b) that proposal, and that proposed scheme, are approved by the Scottish Ministers, either—
 - (i) without modification; or
 - (ii) with such modifications as the Scottish Ministers consider appropriate,

the Scottish Ministers shall by order make such provision for and in connection with the implementation of the proposed scheme in relation to those elections as they consider appropriate (which may include provision modifying or disapplying any enactment).

(2) A scheme under this section is a scheme which makes, in relation to local government elections in the area of a local authority, provision differing in any respect from that made by virtue of the Representation of the People Acts—

- (a) as regards one or more of the following—
 - (i) when and where voting at the elections is to take place;
 - (ii) the method used to cast votes;
 - (iii) how the votes cast are to be counted;
 - (iv) the sending by candidates of election communications free of charge for postage; or
- (b) for any other matter which relates to action to be taken, or procedure to be carried out, before or during the poll which is to be held at the election.

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- (3) A scheme may make provision such as is mentioned in paragraph (b) of subsection (2) above only where, in the opinion of the local authority which proposed the scheme, that provision is likely to—
- (a) facilitate voting by any persons or any class of persons; or
 - (b) encourage more persons, or more persons of a particular class, to vote at the election.
- (4) Without prejudice to the generality of subsections (1) and (2) above, a scheme under this section may make provision—
- (a) for voting to take place—
 - (i) on more than one day (whether each of those days is designated as a day of the poll or otherwise);
 - (ii) at places other than polling stations;
 - [^{F1}(aa) for ballot papers issued at the elections to contain photographs of the candidates;]
 - (b) for postal charges incurred in respect of the sending of candidates' election communications as mentioned in subsection (2)(a)(iv) above to be paid by the local authority,
- and where a scheme makes such provision as is mentioned in paragraph (b) above, the Scottish Ministers' order under subsection (1) above may make provision for disapplying section [^{F2}75A(2)] of the 1983 Act (restriction on third party election expenditure) in relation to the payment of such charges by the local authority.
- (5) In subsection (2) above the reference to local government elections in the area of a local authority is a reference to such elections—
- (a) throughout that area; or
 - (b) in any particular part or parts of it,
- as the scheme may provide.
- (6) The Scottish Ministers—
- (a) may, in order to inform their consideration of a proposal and proposed scheme submitted to them under subsection (1) above and how they might deal with it, consult such persons as they think appropriate;
 - (b) shall, before making any modification under that subsection, consult the local authority which submitted the proposal and proposed scheme.
- (7) The Scottish Ministers shall send a copy of any order under subsection (1) above to the local authority to which it relates and the authority shall publish the order in their area in such manner as they think fit.
- (8) After the elections in relation to which a scheme under this section applied have taken place, the [^{F3}Electoral Commission] shall prepare a report on the scheme.
- (9) The report shall contain—
- (a) a description of the scheme and of the respects in which the provision made by it differed from that made by virtue of the Representation of the People Acts;
 - (b) a copy of the order of the Scottish Ministers under subsection (1) above; and
 - (c) an assessment of the extent to which the scheme—
 - (i) encouraged voting at the elections;
 - (ii) enabled voters to make informed decisions at the elections;
 - (iii) facilitated voting at the elections.

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- (10) An assessment under subsection (9)(c)(iii) shall include a statement by the [^{F4}Electoral Commission] as to whether, in their opinion—
- (a) the turnout of voters was higher than it would have been if the scheme had not applied;
 - [^{F5}(aa) the arrangements made under the scheme assisted disabled persons (within the meaning of section 6(2) of the Equality Act 2010) to vote at the elections;]
 - (b) voters found the procedures provided under the scheme easy to use;
 - (c) the procedures provided under the scheme led to any incidence of, or increase in, personation or other electoral offences or in any other malpractice in connection with elections.
- (11) If the Scottish Ministers so request in writing, the report shall contain also an assessment of such other matters relating to the scheme as are specified in the request.
- [^{F6}(11A) In preparing the report, the Electoral Commission may consult such persons as they think appropriate.]
- [^{F7}(12) The Electoral Commission must—
- (a) send a copy of the report to—
 - (i) the Scottish Ministers, and
 - (ii) the local authority which proposed the scheme, and
 - (b) publish the report in such manner as they think fit,
- by the end of the period of three months beginning with the date of the declaration of the result of the elections to which the report relates.]
- (13) For the purposes of this section a proposal falling within subsection (1) above and submitted to the Scottish Ministers before the date on which this Act comes into force shall be as effective as one so submitted on or after that date.
- (14) In this section and in section 6 below—
- “local authority” means a council constituted under section 2 of the 1994 Act;
 - “local government election” has the meaning given by section 204(1) of the 1983 Act; and
 - “modifications” includes additions, omissions and amendments (and “modify” has a corresponding meaning).

Textual Amendments

- F1** S. 5(4)(aa) inserted (29.1.2007) by [Local Electoral Administration and Registration Services \(Scotland\) Act 2006 \(asp 14\)](#), **ss. 25**, 63(2); S.S.I. 2007/26, art. 2(1)(h)
- F2** Word in s. 5(4) substituted (17.2.2007) by [Local Electoral Administration and Registration Services \(Scotland\) Act 2006 \(asp 14\)](#), s. 63(2), **Sch. 2 para. 14**; S.S.I. 2007/26, art. 3(1)(i) (with art. 3(2))
- F3** Words in s. 5(8) substituted (1.10.2020) by [Scottish Elections \(Reform\) Act 2020 \(asp 12\)](#), **ss. 7(a)**, 35; S.S.I. 2020/278, reg. 2, sch.
- F4** Words in s. 5(10) substituted (1.10.2020) by [Scottish Elections \(Reform\) Act 2020 \(asp 12\)](#), **ss. 7(b)(i)**, 35; S.S.I. 2020/278, reg. 2, sch.
- F5** S. 5(10)(aa) inserted (1.10.2020) by [Scottish Elections \(Reform\) Act 2020 \(asp 12\)](#), **ss. 7(b)(ii)**, 35; S.S.I. 2020/278, reg. 2, sch.
- F6** S. 5(11A) inserted (1.10.2020) by [Scottish Elections \(Reform\) Act 2020 \(asp 12\)](#), **ss. 7(c)**, 35; S.S.I. 2020/278, reg. 2, sch.

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F7 S. 5(12) substituted (1.10.2020) by [Scottish Elections \(Reform\) Act 2020 \(asp 12\)](#), ss. [7\(d\)](#), 35; S.S.I. 2020/278, reg. 2, sch.

6 **Revision of procedures in the light of pilot schemes** **S**

- (1) If it appears to the Scottish Ministers, in the light of any report made under section 5 above on a scheme under that section, that it would be desirable for provision similar to that made by the scheme to apply generally and on a permanent basis in relation to—
- (a) local government elections in Scotland; or
 - (b) any particular description of such elections,
- they may by order make such provision for and in connection with that purpose as they consider appropriate (which may include provision modifying or disapplying any enactment).
- (2) An order under subsection (1) above—
- (a) may, however, except from the operation of any of its provisions any local authority's area specified in the order; but
 - (b) subject to that, shall make the same provision—
 - (i) in relation to local government elections; or
 - (ii) if it applies only to a particular description of such elections, in relation to elections of that description, throughout Scotland.
- (3) An order under subsection (1) above shall be made by statutory instrument; and no such order shall be made unless a draft of the statutory instrument containing the order has been laid before, and approved by a resolution of, the Scottish Parliament.
- (4) When laying such a draft before the Parliament the Scottish Ministers shall also lay before the Parliament a copy of the report under section 5 above of each relevant local authority (within the meaning of that section) in whose area a scheme making provision similar to that made by the order has been implemented.
- (5) Rules made under section 42 of the 1983 Act (local elections in Scotland) may make such provision as the Scottish Ministers consider appropriate in connection with any provision made by an order under subsection (1) above.
- (6) Nothing in this section shall be taken as prejudicing the generality of any power contained in any other Act to make subordinate legislation with respect to elections of any description.

7 **Short title** **S**

This Act may be cited as the Scottish Local Government (Elections) Act 2002.

Changes to legislation:

There are currently no known outstanding effects for the Scottish Local Government (Elections) Act 2002, Cross Heading: New electoral procedures.