



# Local Electoral Administration and Registration Services (Scotland) Act 2006

2006 asp 14

## PART 1

### LOCAL GOVERNMENT ELECTIONS

#### *Miscellaneous*

VALID FROM 17/02/2007

#### **27 Tendered votes in certain circumstances**

(1) In section 61 of the 1983 Act (certain voting offences), before subsection (7) insert—

“(6B) A person is not guilty of an offence under subsection (2)(b) or (3)(b) above by reason only of having marked or tendered a ballot paper at a local government election in Scotland in pursuance of any provision—

- (a) made under section 3(1) of the Local Governance (Scotland) Act 2004 (asp 9) as to the conduct of elections of councillors; and
- (b) which entitles him to do so despite the fact that he is or may be entitled to vote by post at the election.”

(2) In Schedule 4 to the 2000 Act (absent voting in Great Britain)—

(a) in paragraph 2 (manner of voting at parliamentary or local government elections), before sub-paragraph (7) insert—

“(6B) Sub-paragraph (2) above does not prevent a person, at the polling station allotted to him at a local government election in Scotland, marking a tendered ballot paper in pursuance of any provision—

- (a) made under section 3(1) of the Local Governance (Scotland) Act 2004 (asp 9) as to the conduct of elections of councillors, and
- (b) which entitles him to do so despite the fact that he is or may be entitled to an absent vote at the election.”

*Status: Point in time view as at 29/01/2007. This version of this cross heading contains provisions that are not valid for this point in time.*

*Changes to legislation: There are currently no known outstanding effects for the Local Electoral Administration and Registration Services (Scotland) Act 2006, Cross Heading: Miscellaneous. (See end of Document for details)*

(b) in paragraph 7 (voting as proxy), at end insert—

“(14) Sub-paragraph (2) above does not prevent a person entitled to vote as proxy for another, at the polling station allotted to him at a local government election in Scotland, marking a tendered ballot paper in pursuance of any provision—

- (a) made under section 3(1) of the Local Governance (Scotland) Act 2004 (asp 9) as to the conduct of elections of councillors, and
- (b) which entitles him to do so despite the fact that he is or may be entitled to vote by post as proxy.”

#### Commencement Information

- II** S. 27 wholly in force at 17.2.2007, see s. 63(2) and S.S.I. 2007/26, art. 3(1)(e) (with transitional provisions in art. 3(2))

## 28 Election campaigns and proceedings: miscellaneous amendments

(1) In section 81 of the 1983 Act (return as to election expenses), after subsection (10A) insert—

“(10B) In the application of subsection (10A) in relation to a local government election in Scotland, the reference to the Electoral Commission is to be read as if it were a reference to the Scottish Ministers.”

(2) In section 138(2) of the Political Parties, Elections and Referendums Act 2000 (c. 41) (which restricts, in relation to local government elections in Scotland, the effect of amendments to the 1983 Act made by Schedule 18 (election campaigns and proceedings) of that Act), for “Schedule 18 (other than paragraphs 8 and 15(a))” substitute “ paragraphs 7(4), 9, 14, 17, 18 (other than sub-paragraph (1)(b)) and 19(7) of Schedule 18 ”.

(3) In section 158(3)(a) of that Act (which restricts, in relation to local government elections in Scotland, the effect of repeals relating to the 1983 Act) for “section 82(4)” substitute “ those relating to sections 72, 73, 79, 81, 82, 101 to 105, and 108 and Schedule 3 ”.

## 29 Details to appear on election publications

(1) Section 110 of the 1983 Act (printer's name and address on election publications), so far as applying in relation to a local government election in Scotland, is repealed.

(2) Before section 111 of the 1983 Act insert—

#### “110A Scottish local government elections: details to appear on election publications

(1) This section applies to any material which can reasonably be regarded as intended to promote or procure the election of a candidate at a local government election in Scotland (whether or not it can be so regarded as intended to achieve any other purpose as well).

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- (2) No material to which this section applies is to be published unless—
- (a) in the case of material which is, or is contained in, such a document as is mentioned in subsection (4), (5) or (6) below, the requirements of that subsection are complied with; or
  - (b) in the case of any other material, any requirements falling to be complied with in relation to the material by virtue of regulations under subsection (7) below are complied with.
- (3) For the purposes of subsections (4) to (6) below the following details are “the relevant details” in the case of any material falling within subsection (2)(a) above, namely—
- (a) the name and address of the printer of the document;
  - (b) the name and address of the promoter of the material; and
  - (c) the name and address of any person on whose behalf the material is being published (and who is not the promoter).
- (4) Where the material is a document consisting (or consisting principally) of a single side of printed matter, the relevant details must appear on the face of the document.
- (5) Where the material is a printed document other than one to which subsection (4) above applies, the relevant details must appear on either the first or the last page of the document.
- (6) Where the material is an advertisement contained in a newspaper or periodical—
- (a) the name and address of the printer of the newspaper or periodical must appear on either its first or last page; and
  - (b) the relevant details specified in subsection (3)(b) and (c) above must be included in the advertisement.
- (7) The Scottish Ministers may by regulations make provision for and in connection with the imposition of requirements as to the inclusion in material falling within subsection (2)(b) above of the following details, namely—
- (a) the name and address of the promoter of the material; and
  - (b) the name and address of any person on whose behalf the material is being published (and who is not the promoter).
- (8) Regulations under subsection (7) above may, in particular, specify—
- (a) the manner and form in which such details are to be included in any such material for the purpose of complying with any such requirement;
  - (b) circumstances in which—
    - (i) any such requirement does not have to be complied with by a person of any description specified in the regulations; or
    - (ii) a breach of any such requirement by a person of any description so specified is not to result in the commission of an offence under this section by that person or by a person of any other such description;
  - (c) circumstances in which material is, or is not, to be taken for the purposes of the regulations to be published or (as the case may be) published by a person of any description so specified.

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- (9) Regulations under subsection (7) may contain such incidental, supplemental, saving or transitional provision as the Scottish Ministers think fit.
- (10) A statutory instrument containing regulations under subsection (7) above is subject to annulment in pursuance of a resolution of the Scottish Parliament.
- (11) Where any material falling within subsection (2)(a) above is published in contravention of subsection (2), then (subject to subsections (13) and (14) below)—
- (a) the promoter of the material;
  - (b) any other person by whom the material is so published; and
  - (c) the printer of the document,
- shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 5 on the standard scale.
- (12) Where any material falling within subsection (2)(b) above is published in contravention of subsection (2), then (subject to regulations made by virtue of subsection (8)(b) above and to subsections (13) and (14) below)—
- (a) the promoter of the material; and
  - (b) any other person by whom the material is so published,
- shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 5 on the standard scale.
- (13) It shall be a defence for a person charged with an offence under this section to prove—
- (a) that the contravention of subsection (2) above arose from circumstances beyond his control; and
  - (b) that he took all reasonable steps, and exercised all due diligence, to ensure that that contravention would not arise.
- (14) Where a candidate or his election agent would (apart from this subsection) be guilty of an offence under subsection (11) or (12) above, he shall instead be guilty of an illegal practice.
- (15) In this section—
- “print” means print by whatever means, and “printer” shall be construed accordingly;
- “the promoter”, in relation to any material to which this section applies, means the person causing the material to be published;
- “publish” means make available to the public at large, or any section of the public, in whatever form and by whatever means.
- (16) For the purpose of determining whether any material is material such as is mentioned in subsection (1) above, it is immaterial that it does not expressly mention the name of any candidate.”

#### **Commencement Information**

**12** S. 29 wholly in force at 29.1.2007, see s. 63(2) and S.S.I. 2007/26, art. 2(1)(j) (with transitional provisions in art. 2(2))

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### 30 Repeal of reference to Maundy Thursday

- (1) The 1983 Act is amended as follows.
- (2) In section 119(2) (computation of time for purposes of Part 2), the words “Maundy Thursday” are repealed.
- (3) The amendment made by subsection (2) extends to section 119(2) only so far as it applies for the purposes of a local government election in Scotland.

VALID FROM 17/02/2007

### 31 Translations etc. of certain documents

In the 1983 Act, before section 200 insert—

“199C **Scottish local government elections: translations etc. of certain documents**

- (1) Subsections (2) and (3) below apply to any document which, under or by virtue of this Act, is required or authorised to be given to voters or displayed in any place for the purposes of a local government election in Scotland.
- (2) The person who is required or authorised to give or display the document must, as he thinks appropriate, also give or display or otherwise make available in such form as he thinks appropriate—
  - (a) the document in Braille;
  - (b) the document in languages other than English;
  - (c) graphical representations of the information contained in the document;
  - (d) other means of making the information contained in the document accessible to persons who might not otherwise have reasonable access to the information.
- (3) The person required or authorised to give or display the document must also, as he thinks appropriate, make available the information contained in the document in such audible form as he thinks appropriate.
- (4) Subsections (2) and (3) above do not apply to—
  - (a) the nomination paper; or
  - (b) the ballot paper.”.

#### Commencement Information

- I3** S. 31 wholly in force at 17.2.2007, see s. 63(2) and S.S.I. 2007/26, art. 3(1)(f) (with transitional provisions in art. 3(2))

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### 32 Certain voters entitled to vote in person

In paragraph 2 of Schedule 4 to the 2000 Act (absent voting in Great Britain)—

(a) before sub-paragraph (6) insert—

“(5B) In relation to a local government election in Scotland, nothing in the preceding provisions of this paragraph applies to a person to whom section 7 of the 1983 Act (mental patients who are not detained offenders) applies and who is liable, by virtue of any enactment, to be detained in the mental hospital in question, whether he is registered by virtue of that provision or not; and such a person may vote—

(a) in person (where he is granted permission to be absent from the hospital and voting in person does not breach any condition attached to that permission), or

(b) by post or by proxy (where he is entitled as an elector to vote by post or, as the case may be, by proxy at the election).”

(b) in sub-paragraph (6), paragraph (a) and the “or” following it, so far as applying in relation to a local government election in Scotland, are repealed.

#### Commencement Information

**I4** S. 32 wholly in force at 17.2.2007, see s. 63(2) and S.S.I. 2007/26, art. 3(1)(g) (with transitional provisions in art. 3(2))

### 33 Power to make regulations as to preparation of special lists and records etc.

The Scottish Ministers may by regulations make provision with respect to—

- (a) the procedure to be followed in the preparation of any special lists or records required by the 1983 Act in connection with a local government election, and
- (b) the time, place and manner of publication of such special lists or records.

### 34 Miscellaneous amendments

(1) The following provisions of the 1983 Act, so far as they apply in relation to a local government election in Scotland, are amended as follows—

- (a) in section 65 (tampering with nomination papers, ballot papers etc.), in subsection (1)(b), after “or any” insert “postal voting statement or”,
- (b) in section 66 (requirement of secrecy), in each of the following provisions, after “number” insert “or other unique identifying mark ”
  - (i) subsection (2)(a),
  - (ii) subsection (3)(c),
  - (iii) subsection (4)(b) and (c), and
  - (iv) subsection (5).

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- (2) In section 160 of the 1983 Act (persons reported personally guilty of corrupt or illegal practices), the following provisions are repealed—
- (a) in subsection (5A), the words “to subsection (5B) below and”, and
  - (b) subsection (5B).
- (3) In section 173A of the 1983 Act (incapacity to hold public or judicial office in Scotland), the following provisions are repealed—
- (a) in subsection (1), the words “to subsection (3) and”, and
  - (b) subsection (3).
- (4) In Schedule 2 (provisions which may be contained in regulations as to registration etc.) to the 1983 Act, after paragraph 12 insert—
- “12A Regulations under section 53 making provision as mentioned in paragraph 12 in relation to a local government election in Scotland may also make provision authorising the cancellation or removal of ballot papers at such an election in any prescribed circumstances.”
- (5) In paragraph 3(3)(b) of Schedule 4 to the 2000 Act (eligibility to vote by proxy at parliamentary or local government elections), the words “or, in the case of local government elections in Scotland, by reason of blindness or other physical incapacity” are repealed.
- (6) In section 3 of the Local Governance (Scotland) Act 2004 (asp 9), after subsection (2) insert—
- “(2A) For the avoidance of doubt, not every order made under subsection (1) need include provision of the type mentioned in subsection (2).”

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#### Commencement Information

- I5** [S. 34](#) wholly in force at 17.2.2007; [s. 34](#) not in force at Royal Assent, see [s. 63\(2\)](#); [s. 34\(2\)\(3\)\(6\)](#) in force at 29.1.2007 and [s. 34\(1\)\(4\)\(5\)](#) in force at 17.2.2007 by [S.S.I. 2007/26](#), [arts. 2\(1\)\(m\), 3\(1\)\(h\)](#) (with transitional provisions in [art. 3\(2\)](#))

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