



Local Electoral Administration and Registration Services (Scotland) Act 2006

2006 asp 14

PART 1

LOCAL GOVERNMENT ELECTIONS

Performance of returning officers in relation to elections etc.

1 Setting of performance standards

- (1) The Scottish Ministers may—
 - (a) determine standards of performance for returning officers, and
 - (b) publish, in such form and in such manner as they consider appropriate, the standards so determined.
- (2) The standards of performance are to be such standards as the Scottish Ministers think ought to be achieved by returning officers in the administration of a local government election.
- (3) When the Scottish Ministers publish standards under subsection (1) they must lay a copy of the published standards before the Scottish Parliament.

2 Returns and reports on performance standards

- (1) The Scottish Ministers may issue directions to returning officers to provide the Scottish Ministers with such reports regarding their level of performance against the standards determined under section 1(1) as may be specified in the direction.
- (2) A direction under subsection (1)—
 - (a) must specify the returning officer or officers to whom it is issued,
 - (b) may require the report or reports to relate to such elections as may be specified in the direction, and
 - (c) may require the report or reports to be provided in a form specified in the direction.

- (3) A report provided to the Scottish Ministers in pursuance of subsection (1) may be published by the returning officer to whom it relates.
- (4) The Scottish Ministers must prepare and publish (in such manner as they may determine) assessments of the level of performance by returning officers against the standards determined under section 1(1).
- (5) An assessment under subsection (4)—
 - (a) must specify the returning officer or officers to whom it relates,
 - (b) must specify the period to which it relates, and
 - (c) may specify the elections to which it relates.
- (6) The Scottish Ministers must not prepare an assessment under subsection (4) unless they have received reports in pursuance of subsection (1) from the returning officer or officers for the matters to which the assessment relates.
- (7) Before publishing an assessment under subsection (4), the Scottish Ministers must—
 - (a) provide to each returning officer a copy of those parts of the assessment which relate to that returning officer, and
 - (b) have regard to any comments made by the returning officer regarding the factual accuracy of the assessment.

3 Provision of information about expenditure on elections

- (1) The Scottish Ministers may issue a direction to a returning officer to provide the Scottish Ministers with such expenditure information as may be specified in the direction.
- (2) Expenditure information is information relating to expenditure in connection with the local government election or elections for which a returning officer is appointed.
- (3) A direction under subsection (1)—
 - (a) may require the information to relate to such elections as may be specified in the direction, and
 - (b) may require the information to be provided—
 - (i) in such form, and
 - (ii) by such time,as may be so specified.

4 Correction of procedural errors

- (1) A returning officer for a local government election may take such steps as the officer thinks appropriate to remedy any act or omission on the officer's part, or on the part of a relevant person, which—
 - (a) arises in connection with any function the returning officer or relevant person has in relation to the election, and
 - (b) is not in accordance with—
 - (i) provision as to the conduct of elections of councillors made in an order under section 3(1) of the Local Governance (Scotland) Act 2004 (asp 9), or
 - (ii) any other requirements applicable to the election.

- (2) But a returning officer may not under subsection (1) re-count the votes given at an election after the result has been declared.
- (3) For the purposes of subsection (1), each of the following is a relevant person—
 - (a) an electoral registration officer,
 - (b) a presiding officer,
 - (c) a person providing goods or services to the returning officer,
 - (d) a deputy of any person mentioned in paragraph (a) or (b),
 - (e) a person appointed to assist or, in the course of the person's employment, assisting any person mentioned in paragraphs (a) to (c) in connection with any function that person has in relation to the election.
- (4) A returning officer for a local government election is not guilty of an offence under section 63 of the 1983 Act (breach of official duty) by virtue of an act or omission in breach of the officer's official duty if the officer remedies that act or omission in full by taking steps under subsection (1) of this section.
- (5) Subsection (4) does not affect any conviction, or any penalty imposed, before the date on which the act or omission is remedied in full.

Access to election documents

5 Access to election documents

- (1) This section and sections 6 and 7 apply in relation to a local government election.
- (2) The proper officer in relation to the election must—
 - (a) make relevant election documents available for inspection by members of the public, and
 - (b) in relation to such description of documents mentioned in paragraph (a) as the Scottish Ministers may by regulations prescribe, supply, on the request of a member of the public, copies of or extracts from the documents.
- (3) The proper officer must, on the request of any of the following persons, supply the person with a copy of the marked copies of the register, the postal voters list, the list of proxies and the proxy postal voters list relating to the election—
 - (a) a registered party,
 - (b) a person who was a candidate at the election.
- (4) The Scottish Ministers may by regulations impose conditions in relation to—
 - (a) the inspection of any document in pursuance of subsection (2)(a),
 - (b) the supply of any document or part of a document in pursuance of subsection (2)(b),
 - (c) the supply of any document or part of a document in pursuance of subsection (3).
- (5) The Scottish Ministers may by regulations also make provision—
 - (a) as to the form in which any such document or part is supplied,
 - (b) for the payment of a fee in respect of the supply of a document or part.
- (6) Conditions which may be imposed for the purposes of subsection (4)(a) or (b) include conditions as to—

- (a) whether a person may take a copy of any document which the person is permitted to inspect,
 - (b) the manner in which any such copy is to be taken,
 - (c) the purposes for which information contained in any document or part of a document which is inspected or supplied in pursuance of subsection (2) may be used.
- (7) Conditions which may be imposed for the purposes of subsection (4)(b) or (c) include conditions as to the extent to which a person to whom a document or part of a document has been supplied may—
 - (a) supply that document or part to any other person,
 - (b) disclose to any other person any information contained in the document or part,
 - (c) use any such information for a purpose other than that for which the document or part was supplied to the person.
- (8) The Scottish Ministers may by regulations also impose conditions corresponding to those mentioned in subsection (7) in respect of persons who have obtained a document or part of a document mentioned in subsection (3)—
 - (a) which was supplied to another person in pursuance of subsection (3), or
 - (b) otherwise than in accordance with regulations under this section.

6 Access to election documents: contravention of regulations

- (1) A person who fails to comply with any condition imposed in pursuance of regulations under section 5 is guilty of an offence.
- (2) A person—
 - (a) who is an appropriate supervisor of another person who fails to comply with such a condition, and
 - (b) who failed to take appropriate steps,
 is guilty of an offence.
- (3) The other person referred to in subsection (2)(a) is not guilty of an offence under subsection (1) if that person has complied with all the requirements imposed on that person by the appropriate supervisor.
- (4) A person who does not have an appropriate supervisor is not guilty of an offence under subsection (1) if the person takes all reasonable steps to ensure that the person complies with the conditions.
- (5) In subsections (2), (3) and (4)—
 - (a) an appropriate supervisor in relation to another person is a person who is a director of a company or concerned in the management of an organisation in which the other person is employed or under whose direction or control that person is,
 - (b) appropriate steps are such steps as it was reasonable for the appropriate supervisor to take to secure the operation of procedures designed to prevent, so far as reasonably practicable, the occurrence of a failure to comply with the conditions.
- (6) A person guilty of an offence as mentioned in subsection (1) or (2) is liable on summary conviction to a fine not exceeding level 5 on the standard scale.

7 Access to election documents: supplementary

- (1) The following provisions apply for the purposes of the interpretation of sections 5 and 6 and this section.
- (2) The proper officer in relation to an election is such officer of the local authority in whose area the election is held as is appointed by the local authority for the purposes of those sections.
- (3) The relevant election documents are such documents relating to the election as the proper officer is required by or under any enactment to retain for any period except—
 - (a) ballot papers,
 - (b) completed corresponding number lists,
 - (c) certificates as to employment on the day of the election.
- (4) A party is a registered party if it is registered for the purposes of Part 2 of the Political Parties, Elections and Referendums Act 2000 (c. 41).
- (5) The marked copy of the register is a copy of the register of electors marked in the prescribed manner.
- (6) The marked copy of the list of proxies is a copy of that list marked in the prescribed manner.
- (7) The marked copy of the postal voters list or the proxy postal voters list is a copy of that list marked in the prescribed manner.
- (8) The completed corresponding number list is a list prepared and completed in the prescribed manner.
- (9) In this section “prescribed” means prescribed by an order made by the Scottish Ministers.

Observers

8 Observers: individuals

- (1) A person who is aged 16 or over may apply to the returning officer for a local government election for permission to be an observer at any of the following proceedings relating to the election—
 - (a) proceedings at the issue or receipt of postal ballot papers,
 - (b) proceedings at the poll,
 - (c) proceedings at the counting of votes.
- (2) If the returning officer grants the permission sought, the applicant may attend and observe the proceedings referred to in subsection (1).
- (3) An application under subsection (1) must be made in the manner specified in the code of practice issued under section 11.
- (4) The returning officer may at any time revoke any permission granted under this section.
- (5) If the returning officer—
 - (a) refuses an application under subsection (1), or

(b) revokes the permission granted under this section,
the officer's decision together with reasons for the refusal or revocation must be given to the applicant.

- (6) The decision and reasons under subsection (5) must be given by the returning officer in the manner specified in the code of practice issued under section 11.
- (7) The rights conferred by subsection (2) are subject to any enactment which regulates attendance at the proceedings in question.

9 Observers: organisations

- (1) An organisation may apply to the returning officer for a local government election for permission for nominated members of the organisation to be observers at any of the following proceedings relating to the election—
- (a) proceedings at the issue or receipt of postal ballot papers,
 - (b) proceedings at the poll,
 - (c) proceedings at the counting of votes.
- (2) An application under subsection (1) must specify the names of the members who are nominated and such other information relating to them as is specified in the code of practice issued under section 11.
- (3) If the returning officer grants the permission sought, the members of the organisation nominated in the application may attend and observe the proceedings referred to in subsection (1).
- (4) But, in granting the permission sought, the returning officer may impose a limit on the number of observers nominated by the organisation who may attend proceedings or particular proceedings by virtue of this section at any one time.
- (5) An application under subsection (1) must be made in the manner specified in the code of practice issued under section 11.
- (6) If the returning officer refuses an application under subsection (1), the officer must at the same time give reasons for the refusal to the organisation.
- (7) The returning officer may at any time revoke any permission granted under this section.
- (8) If the returning officer revokes any such permission, the officer must—
- (a) at the same time, give reasons for the revocation to the nominated member,
 - (b) as soon as practicable, give the reasons to the organisation.
- (9) Reasons under subsection (6) or (8) must be given by the returning officer in the manner specified in the code of practice issued under section 11.
- (10) The rights conferred by subsection (3) are subject to any enactment which regulates attendance at the proceedings in question.

10 Attendance of observers

- (1) A relevant officer may limit the number of observers who may be present at any proceedings at any one time in pursuance of section 8 or 9.

(2) In this section and section 11—

“observers” means persons entitled to exercise the rights conferred by section 8(2) or 9(3),

“a relevant officer” means—

- (a) in the case of proceedings at a polling station, the presiding officer,
- (b) in the case of any other proceedings, the returning officer,
- (c) such other person as a person mentioned in paragraph (a) or (b) authorises for the purposes of the proceedings mentioned in that paragraph.

11 Code of practice on attendance of observers at elections etc.

(1) The Scottish Ministers must prepare a code of practice on the attendance of observers at local government elections.

(2) The code must in particular—

- (a) specify the manner in which applications under sections 8(1) and 9(1) are to be made to the returning officer,
- (b) specify the manner in which decisions and reasons must be given by the returning officer under sections 8(5) and 9(6) and (8),
- (c) give guidance to returning officers as to the criteria to be taken into account by them in determining applications under sections 8(1) and 9(1),
- (d) give guidance to returning officers as to the criteria to be taken into account by them in determining whether to revoke any permission under section 8(4) or 9(7),
- (e) give guidance to relevant officers as to the exercise of the power conferred by section 10(1),
- (f) give guidance to such officers as to the exercise, in relation to observers, of any power under any enactment to control the number of persons present at any proceedings relating to a local government election,
- (g) give guidance to returning officers and observers on the exercise of the rights conferred by sections 8(2) and 9(3).

(3) The code may make different provision for different purposes.

(4) The Scottish Ministers must—

- (a) lay the code before the Scottish Parliament, and
- (b) publish the code in such manner as they may determine.

(5) Returning officers and other relevant officers must have regard to the code in exercising any function conferred by section 8, 9 or 10.

(6) The Scottish Ministers may at any time revise the code.

(7) Subsections (4) and (5) apply in relation to a revision of the code as they apply in relation to the code.

*False information***12 False information in applications relating to absent voting**

Before section 13D of the 1983 Act (provision of false information) insert—

“13CA Scottish local government elections: false information in connection with applications for absent voting

- (1) A person who provides false information in connection with an application mentioned in subsection (2) below commits an offence.
- (2) The application referred to in subsection (1) above is an application—
 - (a) relating to a local government election in Scotland; and
 - (b) to which any of the following provisions of Schedule 4 to the Representation of the People Act 2000 (c. 2) applies, namely—
 - (i) paragraph 3(1) or (2);
 - (ii) paragraph 4(1) or (2);
 - (iii) paragraph 7(4).
- (3) In relation to a signature, “false information” for the purposes of subsection (1) above means a signature which—
 - (a) is not the usual signature of; or
 - (b) was written by a person other than, the person whose signature it purports to be.
- (4) A person does not commit an offence under subsection (1) above if the person did not know, and had no reason to suspect, that the information was false.
- (5) Where sufficient evidence is adduced to raise an issue with respect to the defence under subsection (4) above, the court must assume that the defence is satisfied unless the prosecutor proves beyond reasonable doubt that it is not.
- (6) A person guilty of an offence under subsection (1) above is liable on summary conviction to (either or both)—
 - (a) imprisonment for a term not exceeding 6 months;
 - (b) a fine not exceeding level 5 on the standard scale.”.

13 False information in nomination papers etc.

After section 65A of the 1983 Act (false information in nomination papers etc. at elections other than Scottish local government elections) insert—

“65B Scottish local government elections: false information in nomination papers etc.

- (1) This section applies in relation to a local government election in Scotland.
- (2) A person is guilty of a corrupt practice if he causes or permits to be included in a document delivered or otherwise furnished to a returning officer for use in connection with the election—

- (a) a statement of the name or home address of a candidate at the election which he knows to be false in any particular; or
 - (b) anything which purports to be the signature of an elector who proposes, seconds or assents to the nomination of such a candidate but which he knows—
 - (i) was not written by the elector by whom it purports to have been written; or
 - (ii) if written by that elector, was not written by him for the purpose of signifying that he was proposing, seconding or, as the case may be, assenting to that candidate's nomination.
- (3) A person is guilty of a corrupt practice if he makes in any document in which he gives his consent to his nomination as a candidate at the election—
- (a) a statement of his date of birth; or
 - (b) a statement as to his qualification for being elected at the election, which he knows to be false in any particular.
- (4) For the purposes of subsection (3) above, a statement as to a candidate's qualification is a statement—
- (a) that he is qualified for being elected;
 - (b) that he will be qualified for being elected; or
 - (c) that to the best of his knowledge and belief he is not disqualified for being elected.”.

Offences relating to voting

14 Undue influence

- (1) Section 115 of the 1983 Act (offence of undue influence), so far as it applies to a local government election in Scotland, is amended as follows.
- (2) In subsection (2)(b)—
- (a) after “prevents” insert “, or intends to impede or prevent,” and
 - (b) after “prevails upon” insert “, or intends so to compel, induce or prevail upon,”.

15 Offences relating to applications for postal and proxy votes

Before section 63 of the 1983 Act (breach of official duty) insert—

“62B Scottish local government elections: offences relating to applications for postal and proxy votes

- (1) This section applies in relation to a local government election in Scotland.
- (2) A person commits an offence if he—
- (a) engages in any of the acts specified in subsection (3) below at the election; and
 - (b) intends, by doing so, to deprive another of an opportunity to vote or to make for himself or another a gain of a vote to which he or the other is not otherwise entitled or a gain of money or property.

- (3) The acts referred to in subsection (2)(a) above are—
- (a) applying for a postal or proxy vote as some other person (whether that other person is living or dead or is a fictitious person);
 - (b) otherwise making a false statement in, or in connection with, an application for a postal or proxy vote;
 - (c) inducing the registration officer or returning officer to send a postal ballot paper or any communication relating to a postal or proxy vote to an address which has not been agreed to by the person entitled to the vote;
 - (d) causing a communication relating to a postal or proxy vote or containing a postal ballot paper not to be delivered to the intended recipient.
- (4) In subsection (2)(b) above, property includes any description of property.
- (5) In subsection (3) above a reference to a postal vote or a postal ballot paper includes a reference to a proxy postal vote or a proxy postal ballot paper (as the case may be).
- (6) A person who commits an offence under subsection (2) above or who aids, abets, counsels or procures the commission of such an offence is guilty of a corrupt practice.”.

Election expenses

16 Prohibition of expenses not authorised by election agent

- (1) In section 75 of the 1983 Act (prohibition of expenses not authorised by election agent), at the end insert—

“(11) This section does not apply in relation to a local government election in Scotland.”.

- (2) After that section insert—

“75A Scottish local government elections: prohibition of expenses not authorised by election agent

- (1) This section applies in relation to a local government election in Scotland.
- (2) No person other than a candidate at the election, his election agent or a person authorised in writing by the election agent shall, with a view to promoting or procuring the election of the candidate, incur any expenses on account of—
- (a) holding public meetings or organising any public display;
 - (b) issuing advertisements, circulars or publications; or
 - (c) otherwise presenting to the electors the candidate or his views or the extent or nature of his backing or disparaging another candidate.
- (3) Subsection (2)(c) above does not restrict the publication of any matter relating to the election in—
- (a) a newspaper or other periodical;
 - (b) a broadcast made by the British Broadcasting Corporation; or

Status: This is the original version (as it was originally enacted).

- (c) a programme included in any service licensed under Part 1 or 3 of the Broadcasting Act 1990 (c. 42) or Part 1 or 2 of the Broadcasting Act 1996 (c. 55).
- (4) Subsection (2) does not apply to expenses incurred by any person—
 - (a) which do not exceed in the aggregate the permitted sum (and are not incurred by that person as part of a concerted plan of action); or
 - (b) in travelling or in living away from home or similar personal expenses.
- (5) For the purposes of subsection (4)(a) above—
 - (a) “the permitted sum” means, in respect of each candidate, £50 together with an additional 0.5p for every entry in the register of local government electors for the electoral area in question as it has effect on the last day for publication of notice of the election; and
 - (b) expenses are to be regarded as incurred by a person “as part of a concerted plan of action” if they are incurred by that person in pursuance of any plan or other arrangement whereby that person and one or more other persons are to incur, with a view to promoting or procuring the election of the same candidate, expenses which (disregarding subsection (4)(a)) fall within subsection (2) above.
- (6) Where a person incurs any expenses required by subsection (2) above to be authorised by the election agent, that person shall, within 21 days after the day on which the result of the election is declared, deliver to the appropriate officer—
 - (a) a return of the amount of the expenses, stating the election at which, and the candidate in whose support they were incurred;
 - (b) a declaration by that person (or in the case of an association or body of persons, by a director, general manager, secretary or other similar officer of the association or body) verifying the return and giving particulars of the matters for which the expenses were incurred; and
 - (c) the authority received from the election agent (which, for the purposes of this section, is to be treated as forming part of the return).
- (7) A person is guilty of a corrupt practice if he—
 - (a) incurs, or aids, abets, counsels or procures any other persons to incur, any expenses in contravention of subsection (2) above; or
 - (b) makes a declaration required by subsection (6)(b) above which he knows to be false.
- (8) A person is guilty of an illegal practice if he fails to deliver any return or declaration as required by subsection (6) above.
- (9) The court by or before which a person is convicted of a corrupt or illegal practice under subsection (7) or (8) above may, if the court thinks it just in the special circumstances of the case, mitigate or entirely remit any incapacity incurred under section 173 or 173A of this Act by virtue of the conviction.
- (10) A candidate is not liable for, and his election is not void by reason of, a corrupt or illegal practice under subsection (7) or (8) above committed by an agent without his consent or connivance.

- (11) Where any act or omission of an association or body of persons (whether corporate or unincorporate) is a corrupt or illegal practice under this section, any person who at the time of the act or omission was a director, general manager, secretary or other similar officer of the association or body, or was purporting to act in any such capacity, is also guilty of the corrupt or illegal practice, unless the person proves—
- (a) that the act or omission took place without his consent or connivance; and
 - (b) that he exercised all such diligence to prevent the commission of the offence as he ought to have exercised having regard to the nature of his functions in that capacity and to all the circumstances.”.
- (3) The amendments made by this section are to be taken to have had effect from 16th February 2001.

17 **Meaning of election expenses for the purposes of the 1983 Act**

- (1) The 1983 Act is amended as follows.
- (2) Sections 90A (meaning of election expenses) and 90B (incurring of election expenses for purposes of section 90A), so far as applying in relation to a local government election in Scotland, are repealed.
- (3) Before section 90C insert—

“90ZB Scottish local government elections: meaning of “election expenses”

- (1) This section applies in relation to a local government election in Scotland.
- (2) In this Part of this Act, “election expenses”, in relation to a candidate at such an election, means any expenses incurred at any time in respect of any matter specified in Part 1 of Schedule 4B which is used for the purposes of the candidate’s election.
- (3) For the purposes of subsection (2) above, it is immaterial whether any such matter is so used before or after the date when the candidate becomes a candidate at the election.
- (4) No election expenses are to be regarded as incurred by virtue of subsection (2) above or section 90C below in respect of any matter specified in Part 2 of Schedule 4B.
- (5) In this section and in section 90C below, “for the purposes of the candidate’s election” means with a view to, or otherwise in connection with, promoting or procuring the candidate’s election at the election.
- (6) For the purposes of this Part of this Act so far as applying to a local government election in Scotland, election expenses are incurred by or on behalf of a candidate at the election if they are incurred—
 - (a) by the candidate or his election agent; or
 - (b) by any person authorised by the candidate or his election agent to incur expenses.

- (7) In this Part of this Act so far as applying to a local government election in Scotland, any reference to election expenses incurred by or on behalf of a candidate at the election includes expenses—
- (a) which are incurred as mentioned in subsection (2) above before the date when he becomes a candidate at the election; but
 - (b) which by virtue of that subsection and subsection (3) above fall to be regarded as election expenses.
- (8) In this Part and in Part 3 of this Act so far as applying to a local government election in Scotland, any reference (in whatever terms) to promoting or procuring a candidate's election at an election includes doing so by prejudicing the electoral prospects of another candidate at the election.”.
- (4) Before Schedule 5 insert the Schedule set out in schedule 1 to this Act.

18 Financial limits applying to candidates' election expenses

In section 132 of the Political Parties, Elections and Referendums Act 2000 (c. 41), subsection (6) (which restricts, in relation to local government elections in Scotland, modifications made by that section to section 76 of the 1983 Act relating to limitation of election expenses) is repealed.

19 Return as to election expenses

- (1) In section 81 of the 1983 Act (returns as to election expenses), subsection (3), so far as applying in relation to a local government election, is repealed.
- (2) Before subsection (5) of that section, insert—
- “(4A) In relation to a local government election in Scotland, the return shall also contain as respects that candidate—
- (a) a statement relating to such expenses as the Scottish Ministers may by regulations prescribe, being expenses (other than election expenses) in connection with which provision is made by this Part;
 - (b) a statement relating to such claims as the Scottish Ministers may so prescribe, being claims (whether paid, unpaid or disputed) in connection with election expenses or expenses prescribed under paragraph (a);
 - (c) a statement relating to such other matters as the Scottish Ministers may so prescribe.
- (4B) No regulations shall be made by the Scottish Ministers under subsection (4A) above unless a draft of the instrument containing the regulations has been laid before and approved by a resolution of the Scottish Parliament.”.

Anonymous entries

20 Anonymous registration: miscellaneous amendments

The following provisions of the 1983 Act and the 2000 Act (which provide for certain provisions of those Acts relating to anonymous entries not to apply in relation to local government elections in Scotland) are repealed, namely—

- (a) in section 9B of the 1983 Act (anonymous registration), subsection (9),
- (b) in section 128 of the 1983 Act (presentation of petition questioning local election), subsection (1B),
- (c) in Schedule 4 to the 2000 Act (absent voting)—
 - (i) in paragraph 3, sub-paragraph (3A),
 - (ii) in paragraph 4, sub-paragraph (2B),
 - (iii) in paragraph 5, sub-paragraph (5), and
 - (iv) in paragraph 7, sub-paragraph (8B).

Personal identifiers

21 Absent vote applications: provision of personal identifiers

- (1) This section applies to an application under any of the paragraphs of Schedule 4 (absent voting in Great Britain) to the 2000 Act specified in subsection (2) if the application is made for the purposes only of local government elections in Scotland or a particular local government election in Scotland.
- (2) Those paragraphs are—
 - (a) paragraph 3(1) or (2) (applications to vote by post or proxy at elections for a definite or indefinite period),
 - (b) paragraph 4(1) or (2) (applications to vote by post or proxy at a particular election),
 - (c) paragraph 7(4) (applications to vote by post as proxy).
- (3) A person making such an application (“the applicant”) must include in the application the applicant’s signature and date of birth.
- (4) The registration officer must not grant any such application which does not include those details.
- (5) However, the registration officer may, in relation to any such application, dispense with the requirement under subsection (3) to include the applicant’s signature if the officer is satisfied that the applicant is unable—
 - (a) to provide a signature because—
 - (i) of any disability the applicant has, or
 - (ii) the applicant is unable to read or write, or
 - (b) to sign in a consistent and distinctive way because of any such disability or inability.
- (6) The registration officer must keep a record in relation to persons granted applications to which this section applies showing—
 - (a) their dates of birth, and
 - (b) except in cases where the officer has, under subsection (5), dispensed with the requirement for a signature, their signatures.
- (7) The record kept under subsection (6) must be retained by the registration officer for such period as the Scottish Ministers may by regulations prescribe.

22 Provision of fresh signatures

- (1) This section applies to a person—
 - (a) who is included in the record kept under paragraph 3(4) or 7(6) (record of persons granted applications to vote by post or proxy or by post as proxy for definite or indefinite period) of Schedule 4 to the 2000 Act, and
 - (b) whose signature is shown on the record kept under section 21(6).
- (2) Such a person may, at any time, provide the registration officer with a fresh signature.
- (3) The Scottish Ministers may by regulations make provision—
 - (a) enabling the registration officer, in such circumstances as may be prescribed in the regulations, to require any person to whom this section applies to provide a fresh signature,
 - (b) as to the consequences of such a person refusing or failing, in such circumstances as may be so prescribed, to comply with such a requirement.
- (4) Where a person provides a fresh signature by virtue of this section, the registration officer must amend the record kept under section 21(6) in relation to that person so as to replace the existing signature with the fresh signature.

23 Disclosure of personal identifiers

- (1) The registration officer must either—
 - (a) provide the returning officer for a local government election in Scotland with a copy of any information contained in records kept by the officer under section 21(6) in relation to any electors at the election, or
 - (b) give the returning officer access to such information.
- (2) A registration officer may disclose information contained in records kept by the officer under section 21(6) to—
 - (a) any other registration officer if the officer disclosing it thinks that to do so will assist the other officer in the performance of the other officer's duties,
 - (b) any person exercising functions in relation to the preparation or conduct of legal proceedings under the Representation of the People Acts or any other enactment relating to the conduct of elections, or
 - (c) such other persons, and for such purposes, as the Scottish Ministers may by regulations prescribe.

24 Power to require existing absent voters to provide personal identifiers

- (1) The Scottish Ministers may by regulations make provision—
 - (a) enabling the registration officer, in such circumstances as may be prescribed in the regulations, to require an existing absent voter to provide the officer with the voter's signature and date of birth,
 - (b) as to the consequences of such a voter refusing or failing, in such circumstances as may be so prescribed, to comply with such a requirement.
- (2) The references in subsection (1) to an existing absent voter are references to a person granted, before section 21 came into force, an application to which that section would have applied had it been in force at the time the application was made.

- (3) Subsection (6) of section 21 applies in relation to persons who have complied with a requirement imposed by virtue of subsection (1) of this section as it applies in relation to persons granted applications to which that section applies.

Photographs on ballot papers: piloting

25 Photographs on ballot papers: piloting

In section 5(4) (pilot schemes for local elections) of the Scottish Local Government (Elections) Act 2002 (asp 1), after paragraph (a) insert—

- “(aa) for ballot papers issued at the elections to contain photographs of the candidates;”.

Encouraging electoral participation

26 Encouraging electoral participation

- (1) A returning officer for a local government election may take such steps as the officer thinks appropriate to encourage the participation by electors in local government elections in the area for which the officer acts.
- (2) Such an officer must have regard to any guidance issued by the Scottish Ministers for the purposes of this section.
- (3) The Scottish Ministers may reimburse a returning officer in respect of any expenditure incurred by the officer for the purposes of this section.
- (4) The total amount paid under subsection (3) must not in any year exceed such amount as is determined in accordance with regulations made by the Scottish Ministers.

Miscellaneous

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.”,
- (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.”.

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).

- (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.

- (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.”.

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.

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.”.

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.

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).
- (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).”.

General

35 Part 1: minor and consequential modifications

Schedule 2, which makes minor and consequential modifications, has effect.

36 Interpretation of Part 1

(1) In this Part—

“the 1983 Act” means the Representation of the People Act [1983 \(c. 2\)](#),

“the 2000 Act” means the Representation of the People Act [2000 \(c. 2\)](#).

(2) Any word or expression used in this Part which is also used in the 1983 Act has the same meaning for the purposes of this Part as it has for the purposes of that Act.

(3) Subsection (2)—

- (a) does not apply to any reference to “enactment”, and
- (b) is subject to section 7(9).