

Local Electoral Administration (Scotland) Act 2011

2011 asp 10

PART 2

ELECTORAL COMMISSION: LOCAL GOVERNMENT ELECTIONS

Functions of Commission

10 Reports on elections

In section 5 of the 2000 Act (reports on elections and referendums), after subsection (2A) insert—

“(2B) After an ordinary election of councillors for local government areas in Scotland, the Commission must prepare and publish (in such manner as the Commission may determine) a report on the administration of the election.”.

11 Electoral Commission representatives and observers

(1) In section 6A(5) of the 2000 Act (elections which may be attended by Commission representative), after paragraph (e) insert—

“(ea) a local government election in Scotland;”.

(2) Section 6B(3) of that Act (observation of local government elections in Scotland not permitted) is repealed.

(3) In section 6C(3) of that Act (accredited observers: individuals), after “6F” insert “or, in relation to a local government election in Scotland, section 6G”.

(4) In section 6D(4) of that Act (accredited observers: organisations), after “6F” insert “or, in relation to a local government election in Scotland, section 6G”.

(5) In section 6F of that Act (code of practice)—

(a) in subsection (1), after “6A” insert “(other than a local government election in Scotland)”,

(b) in subsection (10), after “section” insert “and section 6G”.

Status: This is the original version (as it was originally enacted).

(6) After section 6F of that Act insert—

“6G Code of practice on attendance of observers at local government elections in Scotland

- (1) The Commission must prepare a code of practice on the attendance of—
 - (a) representatives of the Commission;
 - (b) accredited observers; and
 - (c) nominated members of accredited organisations,
 at local government elections in Scotland.
 - (2) The code must in particular—
 - (a) specify the manner in which applications under section 6C(1) and 6D(1) are to be made to the Commission;
 - (b) specify the criteria to be taken into account by the Commission in determining such applications;
 - (c) give guidance to relevant officers (within the meaning of section 6E) as to the exercise of the power conferred by subsection (1) of that section;
 - (d) give guidance to such officers as to the exercise of the power mentioned in subsection (2) of that section as it relates to a person having the permission mentioned in subsection (1) of that section;
 - (e) give guidance to such officers as to the exercise of any power under any enactment to control the number of persons present at any proceedings relating to an election as it relates to a person having such permission;
 - (f) give guidance to representatives of the Commission, accredited observers and nominated members of accredited organisations on the exercise of the rights conferred by sections 6A, 6B, 6C and 6D.
 - (3) The code may make different provision for different purposes.
 - (4) Before preparing the code, the Commission must consult the Scottish Ministers.
 - (5) The Commission must lay the code before the Scottish Parliament.
 - (6) The Commission must publish the code (in such matter as they may determine).
 - (7) The following persons must have regard to the code in exercising any function conferred by section 6A, 6B, 6C, 6D or 6E—
 - (a) the Commission;
 - (b) representatives of the Commission;
 - (c) relevant officers (within the meaning of section 6E).
 - (8) The Commission may at any time revise the code.
 - (9) Subsections (4) to (7) apply in relation to a revision of the code as they apply in relation to the code.”.
- (7) Sections 8 to 11 of the Local Electoral Administration and Registration Services (Scotland) Act 2006 are repealed.

12 Consultation on changes to electoral law

In section 7(2) of the 2000 Act (instruments to be consulted upon), after paragraph (i) insert—

“(j) an order under section 3(1) of the Local Governance (Scotland) Act 2004.”.

13 Performance standards

(1) In section 9A(6) of the 2000 Act (setting of performance standards), after paragraph (e) insert—

“(f) a local government election in Scotland.”.

(2) Sections 1 to 3 of the Local Electoral Administration and Registration Services (Scotland) Act 2006 are repealed.

14 Advice and guidance

(1) Section 10 of the 2000 Act (giving of advice and assistance) is amended as follows.

(2) In subsection (7), the words “other than a local government election in Scotland” are repealed.

(3) Subsections (8) to (10) are repealed.

15 Education about electoral systems

(1) Section 13 of the 2000 Act (promotion of public awareness of electoral and government systems) is amended as follows.

(2) Subsections (3) and (7) are repealed.

(3) In subsection (8), for “by virtue of an order made by the Scottish Ministers under subsection (7)” substitute “in relation to local government elections in Scotland”.

Financing and reports etc.

16 Financing of Commission

(1) The 2000 Act is amended as follows.

(2) In section 13—

(a) in subsection (8), the words from “but” to “Ministers” are repealed,

(b) subsections (9) to (11) are repealed.

(3) After section 13 insert—

“13A Reimbursement of costs by Scottish Ministers etc.

(1) The Scottish Ministers must reimburse the Commission for any expenditure incurred by them which is attributable to the exercise of the functions mentioned in subsection (2).

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

- (2) The functions are the Commission’s functions under this Part in relation to local government elections in Scotland.
- (3) The total expenditure incurred in any financial year by the Commission in performing the functions mentioned in subsection (2) must not exceed such sum as is for the time being specified by an order made by the Scottish Ministers.
- (4) The power to make an order under subsection (3) is exercisable by statutory instrument subject to annulment in pursuance of a resolution of the Scottish Parliament.”.

(4) In paragraph 14(1)(a) of Schedule 1, for “13(9)” substitute “13A”.

17 Reports on Commission’s functions

- (1) Schedule 1 to the 2000 Act is amended as follows.
- (2) In paragraph 20 (reports), after sub-paragraph (2) insert—
 - “(3) The functions referred to in sub-paragraph (1) do not include the Commission’s functions under Part 1 in relation to local government elections in Scotland.”.
- (3) After paragraph 20 insert—
 - “20A (1) The Commission must, as soon after the end of each financial year as may be practicable, prepare and lay before the Scottish Parliament a report about the performance of the functions mentioned in sub-paragraph (3) during that financial year.
 - (2) On laying the report, the Commission must publish the report in such manner as they may determine.
 - (3) The functions are the Commission’s functions under Part 1 in relation to local government elections in Scotland.”.

18 Consequential amendments

The Scottish Public Services Ombudsman Act 2002 is amended as follows—

- (a) in section 7 (restrictions on investigations), after subsection (6C) insert—
 - “(6D) The Ombudsman must not investigate action taken by or on behalf of the Electoral Commission unless the action taken concerned local government elections in Scotland.”,
- (b) in Part 2 of schedule 2 (listed authorities), after paragraph 91B insert—
 - “91BA The Electoral Commission.”.

Interpretation

19 Interpretation of Part 2

In this Part, “the 2000 Act” means the Political Parties, Elections and Referendums Act 2000.