

LOCAL GOVERNANCE (SCOTLAND) ACT 2004

EXPLANATORY NOTES

THE ACT — SECTION BY SECTION

Part 1 – Local government elections

Section 3 – Power to make further provision about local government elections

9. Subsection (1) requires the Scottish Ministers to make an order about the conduct of local government elections, the questioning of such elections, and the consequences of irregularities at such elections. Subsection (2) describes certain matters, central to establishing an STV system, which must be contained in an order made under subsection (1). For example, an order will contain provision in relation to the calculation of the quota, the return of candidates and the transfer of ballot papers. Subsection (3) describes certain matters which may be contained in such an order. The effect of these provisions is that an order under this section will set out the detail of the STV system of proportional representation. An order under this section will generally be subject to negative resolution procedure. However where that order contains provisions described in subsection (2) or amends primary legislation then it will be subject to affirmative resolution procedure (see section 16(5)).
10. Subsection (4) provides that an order made under subsection (1)(b) must include provision applying Part III of the Representation of the People Act 1983 (“the 1983 Act”) subject to such modifications or exceptions as are contained in the order. That Part makes provision for the method of questioning local government elections including the grounds on which an election can be questioned and the procedure which requires to be followed. Subsection (5) provides that that is to be the only means of questioning the return of a councillor.