



Local Government (Scotland) Act 1973

1973 CHAPTER 65

PART I

LOCAL GOVERNMENT AREAS, AUTHORITIES AND ELECTIONS

Election of Councillors

4 Term of office and retirement of councillors

- (1) Councillors for a local government area shall be elected by the local government electors for that area in accordance with this Act and Part I of the Act of 1949.
- (2) The ordinary election of councillors for a regional or islands council shall take place in 1974 and every fourth year thereafter.
- (3) Subject to the provisions of subsection (6) below and of section 37(3) of this Act, the term of office of regional or islands councillors shall be four years and they shall retire together at the end of such term on the day of the ordinary election of such councillors.
- (4) The first ordinary election of councillors for a district council shall take place in 1974, the second such election shall take place in 1977 and the third such election shall take place in 1980; thereafter such elections shall take place every fourth year.
- (5) Subject to the provisions of subsection (6) below and of section 37(3) of this Act, the term of office of district councillors shall be
 - (a) for those elected in 1974 and 1977, three years ;
 - (b) for those elected in 1980 and later, four years ;and they shall retire together at the end of such term on the day of the ordinary election of district councillors.
- (6) A person elected to the office of councillor at an election held under the provisions of section 9 or 10 of this Act shall hold office only until the day of the next ordinary election.

5 Electoral divisions and wards

- (1) For the purpose of the election of councillors—
 - (a) every region and every islands area shall be divided into electoral divisions; and
 - (b) every district shall be divided into wards ;and each such division or ward shall return one councillor.
- (2) There shall be a separate election for each electoral division or ward.

6 Returning officers

- (1) Every local authority shall appoint an officer of the authority to be the returning officer for each election of councillors for the authority, and if the person so appointed dies, resigns or is for any other reason unable to act, the authority may appoint another person to be returning officer at that election.
- (2) A returning officer appointed under this Act may by writing under his hand appoint one or more persons to discharge all or any of his functions.
- (3) A local government election shall not be liable to be questioned by reason of a defect in the title, or want of title, of the person presiding at or conducting the election, if that person was then in actual possession of, or acting in, the office giving the right to preside at or conduct the election.

7 Conduct of local government elections

- (1) Elections of councillors for local government areas shall be conducted in accordance with rules made by the Secretary of State, and accordingly references in the Act of 1949 and in the Representation of the People Act 1969 to local elections rules shall, as respects Scotland, be construed as references to rules made under this section.
- (2) Rules made under this section shall apply the parliamentary elections rules in Schedule 2 to the Act of 1949 subject to such adaptations, alterations and exceptions as seem appropriate to the Secretary of State.
- (3) Without prejudice to the generality of subsection (2) above, rules made under this section shall prescribe that the nomination paper of a candidate for election as a councillor for a local government area shall contain a statement declaring that the candidate—
 - (a) consents to be nominated as a candidate ;
 - (b) if elected, will accept office as a councillor and will faithfully perform the duties of the office ;
 - (c) has attained the age of 21 years and is a British subject or citizen of the Republic of Ireland and not subject to any legal incapacity; and
 - (d) is not subject to any of the disqualifications for office set out in section 31 of this Act.
- (4) The statement mentioned in subsection (3) above shall also contain particulars of the candidate's qualification for office under paragraphs (a) to (d) of section 29(1) of this Act, in such form as may be prescribed by rules made under this section.
- (5) All expenditure properly incurred by a returning officer in relation to the holding of an election of a councillor to a local authority shall be paid by the council of that

authority, but only (in cases where there is a scale fixed for the purposes of this section by that council) in so far as it does not exceed that scale.

- (6) Before a poll is taken at an election for a local government area, the council for that area shall, at the request of the returning officer or of any person acting as returning officer, advance to him such reasonable sum in respect of his expenses at the election as he may require.
- (7) A statutory instrument containing rules made under this section shall be subject to annulment in pursuance of a resolution of either House of Parliament.

8 Day of ordinary election

In every year in which ordinary elections of councillors for local government areas are held, the day of election shall be the first Tuesday in May.

9 Election where poll abandoned or countermanded on death of candidate

- (1) If at an election of a councillor for a local authority the poll is, in accordance with the provisions of section 13 of the Representation of the People Act 1969, abandoned or countermanded by reason of the death of a candidate, the returning officer for the election which, by reason of such abandonment or countermanding, has not been duly held or has failed, shall order an election to be held as soon as practicable thereafter on a date to be fixed by him, and he shall remain the returning officer for that election.
- (2) At any such election, no fresh nomination shall be necessary in the case of a candidate who remained validly nominated for the election in respect of which the poll was abandoned or countermanded.

10 Provision in case of non-election of local authority, etc.

- (1) If for any reason a local authority or members of a local authority are not elected in accordance with the provisions of this Act or of Part I of the Act of 1949 and the case is not otherwise provided for, or if there is for any reason no legally constituted local authority for any area or the number of members of a local authority then in office is less than the quorum ascertained in accordance with the provisions of Schedule 7 to this Act, the Secretary of State may direct the holding of an election for filling such vacancies as exist, and the election shall be held as soon as practicable thereafter on a date to be fixed by the Secretary of State.
- (2) The Secretary of State may, in the said direction, make such provision as seems to him expedient for authorising any person to act in place of a local authority pending the election of members of the authority by an election under subsection (1) above, and any direction under this section may contain such incidental, consequential, transitional or supplementary provisions as may appear to the Secretary of State to be necessary or proper.

11 Establishment of new local authorities and supplementary provisions

- (1) Schedule 2 to this Act shall have effect with respect to the establishment of the new local authorities, the suspension of elections of existing local authorities and related matters, and this Part of this Act shall have effect, in relation to such establishment, subject to the provisions of that Schedule.

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

- (2) Until 16th May 1975 the registration officer for any part of a constituency shall be the person who would, by virtue of the Act of 1949, have held that office apart from the changes to local government areas and authorities effected by this Act.
- (3) Schedule 3 to this Act shall have effect for the purpose of amending and otherwise modifying the operation of the Representation of the People Acts and other enactments relating to parliamentary and local government elections, being amendments and modifications necessary or expedient in consequence of other provisions of this Act.
- (4) In this Part of this Act " the Act of 1949 " means the Representation of the People Act 1949, and " registration officer " has the same meaning as in that Act.