



# Local Government (Scotland) Act 1973

## 1973 CHAPTER 65

### PART III

#### GENERAL PROVISIONS AS TO MEMBERS OF LOCAL AUTHORITIES AND PROCEEDINGS

##### *Qualifications and disqualifications*

#### **29 Qualifications for nomination, election and holding office as member of local authority.**

- (1) A person shall, unless disqualified by virtue of this Act or any other enactment, be qualified to be nominated as a candidate for election as, or to be elected, or to be, a member of a local authority if he has attained the age of [<sup>F1</sup>18] years, is a [<sup>F2</sup>qualifying Commonwealth citizen] or a citizen of the Irish Republic [<sup>F3</sup>or a [<sup>F4</sup>qualifying foreign national]] [<sup>F5</sup>or a schedule 6A national] and not subject to any legal incapacity and—
- (a) is, on the day on which he is nominated as a candidate, a local government elector for the area of the authority; or
  - (b) has, during the whole of the twelve months preceding the day on which he is nominated as a candidate, occupied as owner or tenant any land or other premises in the area of the authority; or
  - (c) his principal or only place of work in the twelve months preceding the day on which he is nominated as a candidate has been in the area of the authority; or
  - (d) has, during the whole of the twelve months preceding the day on which he is nominated as a candidate, resided in the area of the authority.

<sup>F6</sup>(1A) .....

- (2) In subsection (1) above,

<sup>F7</sup>...

“owner” includes heir of entail in possession, liferenter and beneficiary entitled under any trust to the rents and profits of land or other premises, and does not include fiar of land or other premises subject to a liferent, or tutor, curator, judicial factor or commissioners.

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- [<sup>F8</sup>(3) For the purposes of this section, a person is a qualifying Commonwealth citizen if he is a Commonwealth citizen who either—
- (a) is not a person who requires leave under the Immigration Act 1971 to enter or remain in the United Kingdom, or
  - (b) is such a person but for the time being has (or is, by virtue of any enactment, to be treated as having) indefinite leave to remain within the meaning of that Act.
- (4) But a person is not a qualifying Commonwealth citizen by virtue of subsection (3) (a) if he does not require leave to enter or remain in the United Kingdom by virtue only of section 8 of the Immigration Act 1971 (exceptions to requirement for leave in special cases).]
- [<sup>F9</sup>(5) For the purposes of this section, a “qualifying foreign national” means a person of any nationality who—
- (a) is not a Commonwealth citizen or a citizen of the Republic of Ireland [<sup>F10</sup>or a schedule 6A national], and
  - (b) meets one of the conditions mentioned in subsection (6).
- (6) The conditions are that the person—
- (a) is not a person who requires leave under the Immigration Act 1971 to enter or remain in the United Kingdom (excluding a person who does not require such leave by virtue only of section 8 of the Immigration Act 1971 (exceptions to requirement for leave in special cases)), or
  - (b) is such a person but for the time being—
    - (i) has (or is, by virtue of any enactment, to be treated as having) indefinite leave to remain within the meaning of that Act, or
    - (ii) has pre-settled status.
- (7) For the purposes of subsection (6)(b)(ii), a person has pre-settled status if the person has limited leave to remain in the United Kingdom granted by virtue of residence scheme immigration rules (within the meaning of section 17(1) of the European Union (Withdrawal Agreement) Act 2020).]
- [<sup>F11</sup>(8) For the purposes of this section, a “schedule 6A national” means a person who—
- (a) is a national of a country for the time being listed in schedule 6A, and
  - (b) either—
    - (i) is not a person who requires leave under the Immigration Act 1971 to enter or remain in the United Kingdom, or
    - (ii) is such a person but for the time being has (or is, by virtue of any enactment, to be treated as having) any description of such leave.]

#### Textual Amendments

- F1** Word in s. 29(1) substituted (20.1.2005) by [Local Governance \(Scotland\) Act 2004 \(asp 9\)](#), **ss. 8, 17(2)**; [S.S.I. 2004/558](#), **art. 2**
- F2** Words in s. 29(1) substituted (1.1.2007 for E.W.S. and 1.7.2008 for N.I.) by [Electoral Administration Act 2006 \(c. 22\)](#), **ss. 18, 77, Sch. 1 para. 46(2)**; [S.I. 2006/3412](#), **art. 3**, [Sch. 1 para. 14\(bb\)\(i\)](#) (subject to [art. 6](#)); [S.I. 2008/1316](#), **arts. 2(2), 4(z)(i)**
- F3** Words in s. 29(1) inserted (1.1.1996) by [S.I. 1995/1948](#), **regs. 1(2), 3(2)**
- F4** Words in s. 29(1) substituted (3.8.2020) by [Scottish Elections \(Franchise and Representation\) Act 2020 \(asp 6\)](#), **ss. 3(2), 12(2)**; [S.S.I. 2020/162](#), **reg. 2**

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- F5** Words in s. 29(1) inserted (20.7.2022) by Scottish Local Government Elections (Candidacy Rights of Foreign Nationals) Act 2022 (asp 4), ss. 1(2)(a), 3
- F6** S. 29(1A) repealed (3.8.2020) by Scottish Elections (Franchise and Representation) Act 2020 (asp 6), ss. 4, 12(2); S.S.I. 2020/162, reg. 2
- F7** Words in s. 29(2) repealed (3.8.2020) by Scottish Elections (Franchise and Representation) Act 2020 (asp 6), ss. 3(3), 12(2); S.S.I. 2020/162, reg. 2
- F8** S. 29(3)(4) inserted (1.1.2007 for E.W.S. and 1.7.2008 for N.I.) by Electoral Administration Act 2006 (c. 22), ss. 18, 77, Sch. 1 para. 46(4); S.I. 2006/3412, art. 3, Sch. 1 para. 14(bb)(i) (subject to art. 6); S.I. 2008/1316, arts. 2(2), 4(z)(i)
- F9** S. 29(5)-(7) inserted (3.8.2020) by Scottish Elections (Franchise and Representation) Act 2020 (asp 6), ss. 3(4), 12(2); S.S.I. 2020/162, reg. 2
- F10** Words in s. 29(5)(a) inserted (20.7.2022) by Scottish Local Government Elections (Candidacy Rights of Foreign Nationals) Act 2022 (asp 4), ss. 1(2)(b), 3
- F11** S. 29(8) inserted (20.7.2022) by Scottish Local Government Elections (Candidacy Rights of Foreign Nationals) Act 2022 (asp 4), ss. 1(2)(c), 3

**Modifications etc. (not altering text)**

- C1** S. 29 modified (8.11.1994) by 1994 c. 39, s. 7(1), Sch. 2 para. 3 (with s. 7(2)); S.I. 1994/2850, art. 2, Sch. 2
- S. 29 applied (temp. from 6.4.1995 to 1.4.1996) by S.I. 1994/3255, art. 3, Sch. 1 para. 1

**30 Re-election.**

A person ceasing to hold office to which he is elected under [F12 the Local Government etc. (Scotland) Act 1994] shall, unless he is not qualified or is disqualified, be eligible for re-election.

**Textual Amendments**

- F12** Words in s. 30 substituted (1.4.1996) by S.I. 1996/739, art. 7(1), Sch. 1 Pt. 1 para. 3(2)

**31 Disqualifications for nomination, election and holding office as member of local authority.**

- (1) Subject to subsections (2) and (3) below, a person shall be disqualified for being nominated as a candidate for election as, or for being elected, or for being, a member of a local authority if—
- (a) F13 . . . . .
- (b) he is a person whose estate has been sequestrated by a court in Scotland or who has been adjudged bankrupt elsewhere than in Scotland; or
- [F14(ba) he is subject to a bankruptcy restrictions order;]
- (c) he has, within five years before the day of nomination, or election or since his election, as the case may be, been convicted in the United Kingdom, the Channel Islands, the Isle of Man or the Irish Republic of any offence and has had passed on him a sentence of imprisonment (whether suspended or not) for a period of not less than three months without the option of a fine; or
- (d) he is disqualified for being elected or for being a member of that authority under Part III of the M1[F15Representation of the People Act 1983].

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- [<sup>F16</sup>(1A) A person is disqualified for being a member of a joint board if he or a partner of his holds any paid office or employment (other than the office of [<sup>F17</sup>convener or depute convener] of the board) or other place of profit in the gift or disposal of the board.]
- (2) Where a person is disqualified under subsection (1) above by reason of his estate having been sequestrated, the disqualification shall cease if and when—
- (a) the sequestration of his estate is recalled or reduced; or
  - [<sup>F18</sup>(b) he is discharged under or by virtue of the Bankruptcy (Scotland) Act [<sup>F19</sup>2016].]
- (3) Where a person is disqualified under subsection (1) above by reason of having been adjudged bankrupt, then—
- (a) if the bankruptcy is annulled on the ground that he ought not to have been adjudged bankrupt or on the ground that his debts have been paid in full, the disqualification shall cease on the date of the annulment;
  - (b) if he is discharged with a certificate that the bankruptcy was caused by misfortune without any misconduct on his part, the disqualification shall cease on the date of his discharge; and
  - (c) if he is discharged without such a certificate, his disqualification shall cease on the expiration of five years from the date of his discharge.
- [<sup>F20</sup>(3A) A person who is for the time being an officer or employee of the Strathclyde Passenger Transport Authority or an employee of a subsidiary of that Authority shall be disqualified for being appointed or for being a member of the Strathclyde Passenger Transport Authority.]
- [<sup>F21</sup>(3B) In subsection (1)(ba) above, “bankruptcy restrictions order” means—
- (a) a bankruptcy restrictions order made under section [<sup>F22</sup>155 of the Bankruptcy (Scotland) Act 2016] ;
  - <sup>F23</sup>(b) . . . . .
  - (c) a bankruptcy restrictions order made under paragraph 1 of Schedule 4A to the Insolvency Act 1986 (c. 45); or
  - (d) a bankruptcy restrictions undertaking entered into under paragraph 7 of that Schedule.]
- <sup>F24</sup>(4) . . . . .

#### Textual Amendments

- F13** S. 31(1)(a) repealed (20.1.2005) by [Local Governance \(Scotland\) Act 2004 \(asp 9\)](#), **ss. 7(1)**, 17(2); [S.S.I. 2004/558](#), **art. 2**
- F14** S. 31(1)(ba) inserted (1.4.2008) by [Bankruptcy and Diligence etc. \(Scotland\) Act 2007 \(asp 3\)](#), **ss. 4(a)**, 227(3) (with [s. 223](#)); [S.S.I. 2008/115](#), **art. 3(1)** (with arts. 4-6, 10)
- F15** Words substituted by [Representation of the People Act 1983 \(c. 2\)](#), s. 206, **Sch. 8 para. 15(b)**
- F16** S. 31(1A) inserted by [Local Government and Housing Act 1989 \(c. 42, SIF 81:2\)](#), **s. 1(4)(b)**
- F17** Words in s. 31(1)(a)(1A) substituted (1.4.1996) by 1994 c. 39, s. 180(1), **Sch. 13 para. 92(8)(a)**; [S.I. 1996/323](#), **art. 4(1)(c)**
- F18** S. 31(2)(b) substituted by [Bankruptcy \(Scotland\) Act 1985 \(c. 66, SIF 66\)](#), s. 75(1), **Sch. 7 para. 12**
- F19** Word in [s. 31\(2\)\(b\)](#) substituted (30.11.2016) by [Bankruptcy \(Scotland\) Act 2016 \(asp 21\)](#), s. 237(2), **sch. 8 para. 7(a)** (with [ss. 232, 234\(3\), 235, 236](#)); [S.S.I. 2016/294](#), reg. 2
- F20** S. 31(3A) inserted (1.4.1996) by 1994 c. 39, s. 180(1), **Sch. 13 para. 92(8)(b)**; [S.I. 1996/323](#), **art. 4(1)(c)**

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- F21** S. 31(3B) inserted (1.4.2008) by [Bankruptcy and Diligence etc. \(Scotland\) Act 2007 \(asp 3\)](#), **ss. 4(b)**, [227\(3\)](#) (with [s. 223](#)); [S.S.I. 2008/115](#), **art. 3(1)** (with [arts. 4-6](#), [10](#))
- F22** Words in [s. 31\(3B\)\(a\)](#) substituted (30.11.2016) by [Bankruptcy \(Scotland\) Act 2016 \(asp 21\)](#), [s. 237\(2\)](#), **sch. 8 para. 7(b)** (with [ss. 232](#), [234\(3\)](#), [235](#), [236](#)); [S.S.I. 2016/294](#), [reg. 2](#)
- F23** S. 31(3B)(b) repealed (1.4.2015) by [Bankruptcy and Debt Advice \(Scotland\) Act 2014 \(asp 11\)](#), [s. 57\(2\)](#), **sch. 4**; [S.S.I. 2014/261](#), **art. 3** (with [arts. 4-7](#), [12](#)) (as amended by [S.S.I. 2015/54](#), [art. 2](#))
- F24** S. 31(4) repealed (1.4.1996) by [1994 c. 39](#), [s. 180\(1\)\(2\)](#), [Sch. 13 para. 92\(8\)\(c\)](#), **Sch. 14**; [S.I. 1996/323](#), [art. 4\(1\)\(c\)\(d\)](#), **Sch. 2**

#### Modifications etc. (not altering text)

- C2** S. 31 applied (with modifications) (1.4.1996) by [S.I. 1995/3026](#), **arts. 1(2)**, [14](#)
- C3** S. 31(1)(2)(3) applied (temp. from 6.4.1995 to 1.4.1996) by [S.I. 1994/3255](#), **art. 3**, **Sch. 1 para. 1**

#### Marginal Citations

- M1** [1983 c. 2](#).

### [<sup>F25</sup> 31A Disqualification of officers, employees etc. from remaining members of local authority

- (1) A person elected a member of a local authority who is the holder of any paid office or employment or other place of profit in the gift or disposal of the authority is disqualified from remaining a member of the authority after the relevant day unless the person complies with subsection (2) below.
- (2) A person complies with this subsection by resigning, not later than the relevant day, from that office, employment or, as the case may be, other place of profit.
- (3) A resignation effected in pursuance of subsection (2) above terminates the holding of the office, employment or other place of profit with immediate effect notwithstanding any contrary provision in the terms and conditions under which the office, employment or place of profit is held.
- (4) In this section the relevant day is the day first occurring after that on which the person elected a member of the local authority was, under the local elections rules, declared to be so elected (no account being taken of a day which is a Saturday or Sunday or Christmas Eve, Easter Monday, or a bank holiday in Scotland under the Banking and Financial Dealings Act 1971 (c. 80) or a day appointed for public thanksgiving or mourning in Scotland).
- (5) In subsection (4) above, the “local elections rules” means an order made under section 3(1) of the Local Governance (Scotland) Act 2004 (asp 9).
- (6) This section does not affect section 1 (disqualification and political restriction of certain local government officers and staff) of the Local Government and Housing Act 1989 (c. 42).]

#### Textual Amendments

- F25** [S. 31A](#) inserted (20.1.2005) by [Local Governance \(Scotland\) Act 2004 \(asp 9\)](#), **ss. 7(2)**, [17\(2\)](#); [S.S.I. 2004/558](#), **art. 2**

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## 32 Proceedings for disqualification.

- (1) Subject to subsection (3) below, proceedings against any person on the ground that he is disqualified (within the meaning of this section) for being nominated as a candidate for election as a member of a local authority may be instituted before the sheriff principal by any opposing candidate at the election.
- (2) Subject to subsection (3) below, proceedings against any person on the ground that he acted, or claims to be entitled to act, as a member of a local authority while disqualified for so acting within the meaning of this section may be instituted before the sheriff principal by the local authority concerned or by any four or more local government electors for the area concerned.
- (3) Proceedings under this section may not be instituted after the alleged disqualification has ceased to exist, but proceedings pending at the time of such cessation may continue.
- (4) Where in proceedings under this section it is proved that a person has acted as a member of a local authority while disqualified for so acting, the sheriff principal may—
  - (a) make a declaration to that effect and declare that the office in which the person has acted is vacant;
  - (b) grant interdict against the person so acting;
  - (c) order the person to pay to the authority such sum not exceeding £100 as the sheriff principal thinks fit.
- (5) Where in proceedings under this section it is proved that the person concerned claims to act as a member of a local authority and is disqualified for so acting, the sheriff principal may make a declaration to that effect and declare that the office in which the person claims to be entitled to act is vacant and grant interdict against the person so acting.
- (6) The sheriff principal shall have the same powers and privileges as a judge on the trial of a parliamentary election petition.
- (7) For the purposes of this section, a person shall be deemed to be disqualified for acting as a member of a local authority if he is not qualified to be, or is disqualified for being, a member of the authority.

### Modifications etc. (not altering text)

C4 [S. 32](#) applied (temp. from 6.4.1995 to 1.4.1996) by [S.I. 1994/3255](#), art. 3, [Sch. I para. 1](#)

## 33 Validity of acts done by unqualified persons.

The acts and proceedings of any person elected to an office under [<sup>F26</sup>the Local Government etc. (Scotland) Act 1994] and acting in that office shall, notwithstanding any question as to the validity of his election or his disqualification or want of qualification, be as valid and effectual as if he had been duly elected and qualified.

### Textual Amendments

F26 Words in [s. 33](#) substituted (1.4.1996) by [S.I. 1996/739](#), art.7(1), [Sch. 1 Pt. I para. 3\(2\)](#)

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**Modifications etc. (not altering text)**

C5 [S. 33](#) applied (temp. from 6.4.1995 to 1.4.1996) by [S.I. 1994/3255](#), art. 3, [Sch. I para. 1](#)

*[<sup>F27</sup> Acceptance of Office*

**Textual Amendments**

F27 [S. 33A](#) inserted by [Local Government and Housing Act 1989](#) (c. 42, SIF 81:1, 2), [s. 30\(1\)](#)

**33A Declaration of acceptance of office of councillor.**

- (1) A person elected to office as a councillor of a local authority shall not, unless—
  - (a) he has made a declaration of acceptance of office in a form prescribed by an order made by the Secretary of State; and
  - (b) the declaration has within two months from the day of the election been delivered to the proper officer of the local authority,act in the office except for the purpose of taking such a declaration.
- (2) If such a declaration is not made and delivered to the proper officer within the appointed time, the office of the person elected shall at the expiration of that time become vacant.
- (3) The declaration shall be made before either—
  - (a) two members of the local authority to which the declarant is elected; or
  - (b) the proper officer of the local authority; or
  - (c) the sheriff; or
  - (d) a justice of the peace.
- (4) Any person before whom a declaration is authorised to be made under this section may take the declaration.]

**Modifications etc. (not altering text)**

C6 [S. 33A](#) amended by [Local Government and Housing Act 1989](#) (c. 42, SIF 81:1, 2), [s. 31\(7\)](#)

C7 [S. 33A](#) applied (temp. from 6.4.1995 to 1.4.1996) by [S.I. 1994/3255](#), art. 3, [Sch. I para. 1](#)

*Resignation and Vacation of Office*

**34 Resignation.**

A member of a local authority may, at any time, resign his office as member by a notice in writing signed by him and delivered to the proper officer of the authority, and his resignation shall take effect upon the expiration of three weeks after the date of delivery of the notice or upon such earlier date, if any, as may be stated in the notice as the date on which the resignation is to take effect.



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**Modifications etc. (not altering text)**

**C8** S. 34 applied (temp. from 6.4.1995 until 1.4.1996) by S.I. 1995/789, art. 2, Sch. para. 3

**35 Vacation of office by failure to attend meetings.**

- (1) Subject to subsections [<sup>F28</sup>(2) to (4)] below, if a member of a local authority fails throughout a period of six consecutive months to attend any meeting of the authority, he shall, unless the failure was due to some reason approved by the authority, cease to be a member of the authority.
- (2) Attendance as a member at a meeting of any committee or sub-committee of the authority, or at a meeting of any joint committee, joint board or other body by whom for the time being any of the functions of the authority are being discharged, and attendance as representative of the authority at a meeting of any body of persons, shall be deemed for the purposes of subsection (1) above to be attendance at a meeting of the authority.
- (3) A member of any branch of Her Majesty's naval, military or air forces when employed during war or any emergency on any naval, military or air force service, and a person whose employment in the service of Her Majesty in connection with war or any emergency is such as, in the opinion of the Secretary of State, to entitle him to relief from disqualification on account of absence, shall not cease to be a member of a local authority by reason only of a failure to attend meetings of the local authority if the failure is due to that employment.
- [<sup>F29</sup>(4) The absence of a member of a local authority from a meeting of the authority during a period of suspension imposed on the member under section 103F or 103G of this Act or section 19 or 21(2) of the Ethical Standards in Public Life etc. (Scotland) Act 2000 (asp 7) is not, for the purposes of this section, a failure to attend the meeting.]

**Textual Amendments**

**F28** Words in s. 35(1) substituted (1.5.2003) by 2000 asp 7, ss. 29(1)(a), 37 (with s. 31); S.S.I. 2003/74, art. 2(2)(c)

**F29** S. 35(4) inserted (1.5.2003) by 2000 asp 7, ss. 29(1)(b), 37 (with s. 31); S.S.I. 2003/74, art. 2(2)(c)

**Modifications etc. (not altering text)**

**C9** S. 35 applied (temp. from 6.4.1995 until 1.4.1996) by S.I. 1995/789, art. 2, Sch. para. 3

**36 Casual vacancies.**

For the purpose of filling a casual vacancy in any office for which an election is held under [<sup>F30</sup>the Local Government etc. (Scotland) Act 1994], the date on which the vacancy is to be deemed to have occurred shall be—

- (a) in the case of death, on the date of death;
- (b) in the case of resignation, the date on which the notice of resignation takes effect;
- (c) in the case of the election of a person who is not qualified to be elected or who is disqualified for being elected a member of a local authority, or of a member of a local authority ceasing to be qualified to be a member or becoming



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disqualified for being a member, the date on which the office has been declared vacant by the sheriff principal [<sup>F31</sup>or become vacant by operation of section 19(3)(a) (effect of disqualification) of the Ethical Standards in Public Life etc. (Scotland) Act 2000 (asp 7).] or the date of the determination of any appeal;

- (d) in the case of a full number of members of a local authority not being elected at an election, the [<sup>F32</sup>day on which the poll was held at] the election;
- (e) in the case of an election being declared void on an election petition, the date of the decision of the election court;
- (f) in the case of a vacancy arising from any other cause, not being a vacancy arising in ordinary course, such date as the local authority may determine.

#### Textual Amendments

- F30** Words in s. 36 substituted (1.4.1996) by S.I. 1996/739, art. 7(1), Sch. 1 Pt. I para. 3(2)
- F31** Words in s. 36(c) inserted (1.5.2003) by 2000 asp 7, ss. 29(2), 37, (with s. 31); S.S.I. 2003/74, art. 2(2)(c)
- F32** Words in s. 36(d) substituted (retrospectively) by Scottish Local Government (Elections) Act 2002 (asp 1), s. 4(4)(6)

### 37 Filling of casual vacancies.

- (1) On a casual vacancy occurring in the office of councillor, an election to fill the vacancy shall be held within three months from the date on which the vacancy is deemed to have occurred, and the [<sup>F33</sup>day on which the poll is to be held at the] election to fill the vacancy shall be fixed by the returning officer.
- (2) Where a casual vacancy in any such office occurs within six months before the [<sup>F34</sup>relevant] date <sup>F35</sup>. . . , an election shall not be held under subsection (1) above unless, on the occurrence of the vacancy (or in the case of a number of simultaneous vacancies, the occurrence of the vacancies), the total number of unfilled vacancies in the membership of the council exceeds one third of the whole number of members; and where an election under subsection (1) above is not held, the vacancy shall be filled at the next ordinary election.

[<sup>F36</sup>(2A) For the purposes of subsection (2) above, the “relevant date” is—

- (a) the first Thursday in May in the year in which the next ordinary election is to be held; or
- (b) where, by virtue of subsection (1)(b) of section 43 of the Representation of the People Act 1983 (c.2), the poll at that election is to be held on another day, that other day.]

- (3) A person elected to fill a casual vacancy in the office of councillor shall hold office until the day of the next ordinary election.

#### Textual Amendments

- F33** Words in s. 37(1) substituted (retrospectively) by Scottish Local Government (Elections) Act 2002 (asp 1), s. 4(5)(6)
- F34** Word in s. 37(2) inserted (22.1.2002) by Scottish Local Government (Elections) Act 2002 (asp 1), s. 3(2)(a)

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- F35

Words in s. 37(2) repealed (22.1.2002) by [Scottish Local Government \(Elections\) Act 2002 \(asp 1\), s. 3\(2\)\(b\)](#)
- F36

S. 37(2A) inserted (22.1.2002) by [Scottish Local Government \(Elections\) Act 2002 \(asp 1\), s. 3\(3\)](#)
- .....
- Modifications etc. (not altering text)
- C10

S. 37(1)(3) applied (temp. from 6.4.1995 to 1.4.1996) by [S.I. 1994/3255, art. 3, Sch. 1 para. 1](#)
- C11

S. 37(1) excluded (22.1.2002) by [Scottish Local Government \(Elections\) Act 2002 \(asp 1\), s. 3\(1\)\(b\)](#)
- C12

S. 37(2) excluded (22.1.2002) by [Scottish Local Government \(Elections\) Act 2002 \(asp 1\), s. 3\(1\)\(a\)](#)

Restrictions on voting

38      **Disability of members of authorities for voting on account of interest in contracts, etc.**

F37  
.....

- .....
- Textual Amendments
- F37

[S. 38](#) repealed (1.5.2003) by [2000 asp 7, ss. 36\(1\), 37, Sch. 4 \(with s. 31\)](#); [S.S.I. 2003/74, art. 2\(2\)\(e\)](#)

39      **Pecuniary interests for purposes of section 38.**

F38  
.....

- .....
- Textual Amendments
- F38

[S. 39](#) repealed (1.5.2003) by [2000 asp 7, ss. 36\(1\), 37, Sch. 4 \(with ss. 31, 36\(2\)\)](#); [S.S.I. 2003/74, art. 2\(2\)\(e\)](#)

40      **General notices and recording of disclosures for purposes of section 38.**

F39  
.....

- .....
- Textual Amendments
- F39

[S. 40](#) repealed (1.5.2003) by [2000 asp 7, ss. 36\(1\), 37, Sch. 4 \(with s. 31\)](#); [S.S.I. 2003/74, art. 2\(2\)\(e\)](#)

41      **Removal or exclusion of disability, etc.**

F40  
.....

- .....
- Textual Amendments
- F40

[S. 41](#) repealed (1.5.2003) by [2000 asp 7, ss. 36\(1\), 37, Sch. 4 \(with s. 31\)](#); [S.S.I. 2003/74, art. 2\(2\)\(e\)](#)

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## 42 Interpretation of sections 39 and 41.

F41 .....

### Textual Amendments

F41 S. 42 repealed (1.5.2003) by 2000 asp 7, ss. 36(1), 37, Sch. 4 (with s. 31); S.S.I. 2003/74, art. 2(2)(e)

### *Meetings and proceedings*

## 43 Meetings and proceedings of local authorities.

The provisions of Schedule 7 to this Act shall have effect with respect to the meetings and proceedings of local authorities and their committees.

### Modifications etc. (not altering text)

C13 S. 43 applied (temp. from 6.4.1995 until 1.4.1996) by S.I. 1995/789, art. 2, Sch. para. 3

F42 44 .....

### Textual Amendments

F42 S. 44 repealed by Local Government (Access to Information) Act 1985 (c. 43, SIF 81:1, 2), s. 3, Sch. 3

### *Allowances to members of local authorities and other bodies*

F43 45 .....

### Textual Amendments

F43 S. 45 repealed (1.4.1991) with savings in s. 45(4) by Local Government and Housing Act 1989 (c. 42, SIF 81:1), s. 194(4), Sch. 12 Pt. II; S.I. 1991/344, art. 3(2)(b)(ii), Schedule, para. 2(1); S. 45 expressed to be amended (temp. from 6.4.1995 to 1.4.1996) by S.I. 1995/789, art. 2, Sch. para. 3 and s. 45(4) expressed to be amended (1.4.1996) by S.I. 1995/3026, arts. 1(2), 13

F44 45A .....

### Textual Amendments

F44 S. 45A repealed (1.4.1991) by Local Government and Housing Act 1989 (c. 42, SIF 81:1), s. 194(4), Sch. 12 Pt. II; S.I. 1991/344, art. 3(2)(b)(ii)

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#### 46 Travelling allowance and subsistence allowance.

- (1) Subject to subsection (2) below a member of a body to which this section applies shall be entitled to receive payments by way of travelling allowance or subsistence allowance where expenditure on travelling (whether inside or outside the United Kingdom) or, as the case may be, on subsistence is necessarily incurred by him for the purpose of enabling him to perform any approved duty as a member of that body, being payments at rates determined by that body, but not exceeding, in the case of travel [<sup>F45</sup>or subsistence] for the purpose of an approved duty within the United Kingdom, such rates as may be specified by the Secretary of State.

<sup>F46</sup>(2) .....

##### Textual Amendments

**F45** Words inserted by [Local Government, Planning and Land Act 1980 \(c. 65\), s. 25\(1\)](#)

**F46** [S. 46\(2\)](#) repealed by [Local Government, Planning and Local Act 1980 \(c. 65\), Sch. 34 Pt. XVI](#)

##### Modifications etc. (not altering text)

**C14** [Ss. 45–50](#) extended with modifications by [Licensing \(Scotland\) Act 1976 \(c. 66\), s. 3\(1\)](#)

**C15** [S. 46](#) extended by [Social Work \(Scotland\) Act 1968 \(c. 49\), Sch. 3 para. 8](#) (as substituted by [Local Government \(Scotland\) Act 1975 \(c. 30\), s. 33](#)) and [Education \(Scotland\) Act 1980 \(c. 44\), Sch. A1 para. 9](#) (as inserted by [Education \(Scotland\) Act 1981 \(c. 58\), s. 1\(2\), Sch. 1](#))

**C16** [Ss. 45-50](#) restricted by [S.I. 1991/397, reg. 26](#)

**C17** [S. 46](#) applied (temp. from 6.4.1995 until 1.4.1996) by [S.I. 1995/789, art. 2, Sch. para. 3](#)

[S. 46](#) applied (with modifications) (1.4.1996) by [S.I. 1995/3026, arts. 1\(2\), 13](#)

#### 47 Allowances for attending conferences and meetings.

- (1) The following bodies, that is to say—

(a) <sup>F47</sup> .....

(b) [<sup>F48</sup>any body] to which this section applies and which has power by virtue of any enactment to send representatives to any conference or meeting to which this section applies;

may pay any member of [<sup>F49</sup>the body] attending any such conference or meeting such [<sup>F50</sup>allowances in the nature of an attendance allowance and an allowance for travel and subsistence, as they think fit.

- (1A) payments made under subsection (1) above shall be of such reasonable amounts as the body in question may determine in a particular case or class of case but shall not exceed—

(a) in the case of payments of an allowance in the nature of an attendance allowance, such amounts as may be specified in or determined under regulations made by the Secretary of State; and

(b) in the case of payments of an allowance in the nature of an allowance for travel and subsistence in respect of a conference or meeting held in the United Kingdom, such amounts as may be specified under section 46 above for the corresponding allowance under that section;

and regulations made by the Secretary of State may make it a condition of any payment mentioned in paragraph (a) above that, in the financial year to which the payment would relate, the aggregate amount which the body in question has paid or is already

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liable to pay in respect of any prescribed allowance or allowances does not exceed such maximum amount as may be specified in or determined under the regulations.]

- (2) Where a body mentioned in subsection (1)(b) above has power under any enactment other than this Act or any instrument under such an enactment to pay expenses incurred in attending a conference or meeting to which this section applies, the amount payable under that enactment or instrument shall not exceed the amount which would be payable in respect of the attendance under that subsection.

- (3) <sup>F51</sup> . . . . .

[<sup>F52</sup>(3A) In relation to any [<sup>F53</sup>body which is a joint board, joint authority or other combined body all the members of which are representatives of local authorities] this section applies to a conference or meeting held [<sup>F54</sup>inside or outside the United Kingdom and convened by any person or body (other than a person or body convening it in the course of a trade or business or a body the objects of which are wholly or partly political)] for the purpose of discussing matters which in the body's opinion relate—

- (a) to the functions of the body; or  
 (b) to any functions of local authorities in which the body has an interest.]

- (4) In relation to any other body to which this section applies, <sup>F55</sup> . . . this section applies to a conference or meeting convened by one or more such bodies or by an association of such bodies.

- <sup>F56</sup>(5) . . . . .

#### Textual Amendments

- F47** S. 47(1)(a) repealed (2.5.2007) by The Local Governance (Scotland) Act 2004 (Allowances and Expenses) Regulations 2007 (S.S.I. 2007/265), **reg. 2(2)(a)(i)**
- F48** Words in s. 47(1)(b) substituted (2.5.2007) by The Local Governance (Scotland) Act 2004 (Allowances and Expenses) Regulations 2007 (S.S.I. 2007/265), **reg. 2(2)(a)(ii)**
- F49** Words in s. 47(1) substituted (2.5.2007) by The Local Governance (Scotland) Act 2004 (Allowances and Expenses) Regulations 2007 (S.S.I. 2007/265), **reg. 2(2)(a)(iii)**
- F50** Words in s. 47(1) substituted (1.4.1991) by Local Government and Housing Act 1989 (c. 42, SIF 81:2), **s. 194(1) Sch. 11 para. 34; S.I. 1991/344, art. 3(2)(a)**
- F51** S. 47(3) repealed (2.5.2007) by The Local Governance (Scotland) Act 2004 (Allowances and Expenses) Regulations 2007 (S.S.I. 2007/265), **reg. 2(2)(b)**
- F52** S. 47(3A) inserted by Local Government, Planning and Land Act 1980 (c. 65), **s. 25(5)**
- F53** Words in s. 47(3A) substituted (1.4.1991) by Local Government and Housing Act 1989 (c. 42, SIF 81:2), **s. 194(1) Sch. 11 para. 34(b); S.I. 1991/344, art. 3(2)(a)**
- F54** Words in s. 47(3A) substituted (2.5.2007) by The Local Governance (Scotland) Act 2004 (Allowances and Expenses) Regulations 2007 (S.S.I. 2007/265), **reg. 2(2)(c)**
- F55** Words in s. 47(4) repealed (1.4.1996) by 1994 c. 39, s. 180(1)(2), Sch. 13 para. 92(10)(a), **Sch. 14; S.I. 1996/323, art. 4(1)(c)(d), Sch. 2**
- F56** S. 47(5) repealed (1.4.1996) by 1994 c. 39, s. 180(1)(2), Sch. 13 para. 92(10)(b), **Sch. 14; S.I. 1996/323, art. 4(1)(c)(d), Sch. 2**

#### Modifications etc. (not altering text)

- C18** S. 47 applied (with modifications) (1.4.1996) by S.I. 1005/3026, **art. 13**
- C19** Ss. 45–50 extended with modifications by Licensing (Scotland) Act 1976 (c. 66), **s. 3(1)**
- C20** S. 47 restricted by S.I. 1991/397, **reg. 23**  
 Ss. 45–50 restricted by S.I. 1991/397, **reg. 26**

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#### 48 Payment of expenses of official and courtesy visits, etc.

- (1) Subject to subsection (2) below, a local authority may—
- (a) defray any travelling or other expenses [<sup>F57</sup>received and] reasonably incurred by or on behalf of any members in making official and courtesy visits, whether inside or outside the United Kingdom, on behalf of the authority;
  - (b) defray any expenses incurred in the reception and entertainment by way of official courtesy of distinguished persons visiting the area of the authority and persons representative of or connected with local government or other public services whether inside or outside the United Kingdom and in the supply of information to any such persons.
- (2) In the case of a visit within the United Kingdom, the amount defrayed under this section by a local authority in respect of the expenses of any member of the authority in making a visit within the United Kingdom shall not exceed the payments which he would have been entitled to receive by way of [<sup>F58</sup>any allowances and reimbursement of expenditure by virtue of regulations made under section 11 of the Local Governance (Scotland) Act 2004] if the making of the visit had been an approved duty of that member.

##### Textual Amendments

- F57** Words in s. 48(1)(a) inserted (2.5.2007) by [The Local Governance \(Scotland\) Act 2004 \(Allowances and Expenses\) Regulations 2007 \(S.S.I. 2007/265\)](#), [reg. 2\(3\)\(a\)](#)
- F58** Words in s. 48(2) substituted (2.5.2007) by [The Local Governance \(Scotland\) Act 2004 \(Allowances and Expenses\) Regulations 2007 \(S.S.I. 2007/265\)](#), [reg. 2\(3\)\(b\)](#)

##### Modifications etc. (not altering text)

- C21** [S. 48](#) applied (temp. from 6.4.1995 until 1.4.1996) by [S.I. 1995/789](#), art. 2, [Sch. para. 3](#)  
[S. 48](#) applied (with modifications) (1.4.1996) by [S.I. 1995/3026](#), [arts. 1\(2\)](#), 13
- C22** [Ss. 45–50](#) extended with modifications by [Licensing \(Scotland\) Act 1976 \(c. 66\)](#), [s. 3\(1\)](#)
- C23** [Ss. 45–50](#) restricted by [S.I. 1991/397](#), [reg. 26](#)

#### 49 Provisions supplementary to sections 45 to 48.

- (1) Sections 45 to 47 of this Act shall apply to the following bodies—
- (a) <sup>F59</sup> .....
  - <sup>F60</sup>(b) .....
  - (c) any joint committee of two more local authorities, whether appointed or established under this Act or any other enactment;
  - (d) any board, joint board, joint authority or other combined body, all the members of which are representatives of local authorities;
  - (e) any body prescribed for the purposes of those sections and on which any such body as is mentioned in any of the foregoing paragraphs is represented; and
  - <sup>F61</sup>(f) .....
- <sup>F62</sup>(1A) .....
- [<sup>F63</sup>(2) In sections 46 to 48 above “approved duty”, in relation to a member of a body, means such duties as may be specified in or determined under regulations made by the Secretary of State.]

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- (3) For the purposes of sections 45 to 48 of this Act a member of a committee or sub-committee of a <sup>F64</sup>. . . body mentioned in subsection (1) above shall be deemed to be a member of that body.
- (4) Section 38(4) of this Act shall apply in relation to a member of any body mentioned in subsection (1) above to whom it would not otherwise apply as it applies in relation to a member of a local authority; and no other enactment or instrument shall prevent a member of any such body from taking part in the consideration or determination of any allowance or other payment under any of the provisions of sections 45 to 48 of this Act [<sup>F65</sup>or under any scheme made by virtue of section 18 of the Local Government and Housing Act 1989].

#### Textual Amendments

- F59** S. 49(1)(a) repealed (2.5.2007) by The Local Governance (Scotland) Act 2004 (Allowances and Expenses) Regulations 2007 (S.S.I. 2007/265), **reg. 2(4)(a)**
- F60** S. 49(1)(b) repealed by Local Government (Scotland) Act 1975 (c. 30), **Sch. 7**
- F61** S. 49(1)(f) repealed by Local Government (Scotland) Act 1975 (c. 30), **Sch. 7**
- F62** S. 49(1A) repealed (1.4.2023) by The First-tier Tribunal for Scotland (Transfer of Functions of Valuation Appeals Committees) Regulations 2023 (S.S.I. 2023/45), reg. 1(2), **sch. 2 para. 5** (with sch. 1 paras. 1-4, 13-20)
- F63** S. 49(2) substituted (16.1.1990 for certain purposes and otherwise prosp.) by Local Government and Housing Act 1989 (c. 42, SIF 81:2), ss. 194(1), 195(2), **Sch. 11 para. 35(3)**; S.I. 1989/2445, **art. 4**
- F64** Words in s. 49(3) omitted (2.5.2007) by virtue of The Local Governance (Scotland) Act 2004 (Allowances and Expenses) Regulations 2007 (S.S.I. 2007/265), **reg. 2(4)(b)**
- F65** Words inserted by Local Government and Housing Act 1989 (c. 42, SIF 81:2), s. 194(1), **Sch. 11 para. 35(4)**

#### Modifications etc. (not altering text)

- C24** S. 49 applied (*temp.* from 6.4.1995 until 1.4.1996) by S.I. 1995/789, art. 2, **Sch. para. 3**  
S. 49 applied (with modifications) (1.4.1996) by S.I. 1995/3026, **arts. 1(2), 13**
- C25** Ss. 45–50 extended with modifications by Licensing (Scotland) Act 1976 (c. 66), **s. 3(1)**
- C26** Ss. 45–50 restricted by S.I. 1991/397, **reg. 26**

<sup>F66</sup>**49A** . . . . .

#### Textual Amendments

- F66** S. 49A repealed (1.4.1991) with savings by Local Government and Housing Act 1989 (c. 42, SIF 81:1), s. 194(4), **Sch. 12 Pt. II**; S.I. 1991/344, art. 3(2)(b)(ii), **Schedule**, para. 3(1); S. 49A amended (1.4.1996) by 1995/3026, arts. 1(2), 13

## 50 Regulations as to allowances.

- (1) The Secretary of State may make regulations as to the manner in which sections 45 to 48 [<sup>F67</sup>and 49A] of this Act are to be administered, and in particular, and without prejudice to the generality of the foregoing provision, may make regulations—
- (a) providing for the avoidance of duplication in payments under those sections, or between payments under any of those sections and any other Act, and



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- for the determination of the body or bodies by whom any payments under those sections are to be made, and, where such payments are to be made by more than one body, for the apportionment between those bodies of the sums payable;
- (b) specifying the forms to be used and the particulars to be provided for the purpose of claiming payments under those sections;
  - (c) providing for the publication by a body to which sections 45 to 47 of this Act apply, in the minutes of that body or otherwise, of details of such payments.
- (2) A statutory instrument containing regulations under section 45 [F68 49 or 49A] of this Act or this section shall be subject to annulment in pursuance of a resolution of either House of Parliament.

#### Textual Amendments

**F67** Words inserted by [Local Government, Planning and Land Act 1980 \(c. 65\), s. 26\(4\)\(a\)](#)

**F68** Words substituted by [Local Government, Planning and Land Act 1980 \(c. 65\), s. 26\(4\)\(b\)](#)

#### Modifications etc. (not altering text)

**C27** [S. 50](#) applied (temp. from 6.4.1995 until 1.4.1996) by [S.I. 1995/789](#), art. 2, [Sch. para. 3](#)

[S. 50](#) applied (with modifications) (1.4.1996) by [S.I. 1995/3026](#), [arts. 1\(2\)](#), 13

**C28** [Ss. 45–50](#) extended with modifications by [Licensing \(Scotland\) Act 1976 \(c. 66\), s. 3\(1\)](#)

**C29** [Ss. 45–50](#) restricted by [S.I. 1991/397](#), [reg. 26](#)

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**Changes and effects yet to be applied to the whole Act associated Parts and Chapters:**

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- Sch. 7 para. 7(3) inserted by [1989 c. 42 Sch. 11 para. 36](#)