



# Local Government (Scotland) Act 1947

## 1947 CHAPTER 43

### PART I

#### CONSTITUTION AND ELECTIONS.

##### COUNTY COUNCILS.

###### *Constitution.*

### **2 Establishment of county councils.**

- (1) For every county there shall be a county council which shall, subject to the provisions of this Act, be entrusted with the management of the administrative and financial business of the county and have all such functions as are vested in the county council by this Act or otherwise.
- (2) The county council shall be a body corporate by the name of the county council with the addition of the name of the county, shall have perpetual succession and a common seal and may sue or be sued under that name.

### **3 Constitution of county councils.**

- (1) A county council shall consist of—
  - (a) county councillors representing the landward area of the county who shall be elected by the local government electors for that area in accordance with the provisions of this Act, one for each of the electoral divisions; and
  - (b) county councillors representing the burghs within the county who shall be elected by the town councils of the burghs as provided in this Part of this Act.
- (2) The number of county councillors for each county and the number of councillors representing respectively the landward area and each of the burghs within the county shall, subject to any alteration made under this Part of this Act or Part VI of this Act, remain the same as at the commencement of this Act.

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### *County Councillors.*

#### **4 Term of office of county councillors.**

- (1) Subject to the provisions of this section, the term of office of a county councillor shall be three years, and in every third year on the second Tuesday of November the whole number of councillors shall retire from office and their places shall be filled by election,
- (2) Notwithstanding anything on this Act—
  - (a) the county councillors representing the landward area at the commencement of this Act shall retire from office on the second Tuesday of November in the year nineteen hundred and forty-eight, notwithstanding that the last election before the commencement of this Act was held on the first Tuesday of December in the year nineteen hundred and forty-five;
  - (b) a county councillor representing a burgh shall cease to be a county councillor on ceasing to be a town councillor of the burgh, so however that if he ceases to be a town councillor by reason of retirement in ordinary course he shall continue to hold office as a county councillor until the town council have elected a successor in his place;
  - (c) on any electoral division of a county being wholly included within the boundaries of a burgh, the county councillor representing the electoral division shall from the date on which the inclusion takes effect cease to hold office, and, except where the Secretary of State otherwise directs, the number of councillors for the county shall be reduced accordingly;
  - (d) where a part only of an electoral division of a county is so included, the county councillor for that electoral division shall continue to hold office until the Secretary of State otherwise directs.

#### *Election of County Councillors representing Landward Area.*

#### **5 Day of election of county councillors for landward area.**

The election of county councillors representing the landward area of the county shall take place on the second Tuesday of November in the year nineteen hundred and forty-eight, and subsequent elections of such councillors shall take place on the second Tuesday of November in every third year thereafter.

#### **6 Division of landward area of county into electoral divisions.**

- (1) For the purpose of electing county councillors for the landward area of a county, that area shall be divided into electoral divisions.
- (2) There shall be a separate election for each electoral division.
- (3) The number, contents and boundaries of the electoral divisions in each county shall, subject to any alteration under this Part of this Act or Part VI of this Act, remain the same as at the commencement of this Act.

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## **7 Electors.**

- (1) The electors at an election of a county councillor for any electoral division shall be the persons entitled, by virtue of the provisions of the Representation of the People Acts, to vote at that election.
- (2) No person shall vote at an election of county councillors for the landward area of a county in more than one electoral division in the county or give more than one vote in any such election.

## **8 Polling districts.**

The county council may divide an electoral division in the county into polling districts, and may alter any polling district, and may abolish polling districts in an electoral division.

## **9 Appointment of returning officer, etc..**

- (1) The county council shall appoint a person to be the returning officer for the purposes of each election of county councillors for the landward area, and if the person so appointed dies, resigns or for any other reason is unable to act, the Secretary of State may appoint another person to be the returning officer at that election.
- (2) The returning officer may by writing under his hand appoint one or more fit persons to be his depute or deputies for all or any of the purposes of the election, and anything required or authorised to be done by, to or before the returning officer in relation to the election may, so far as the depute is authorised to act, be done by, to or before any depute so appointed, and any reference in this Act to a returning officer shall, where a depute returning officer is acting for the returning officer under this subsection, include a reference to the depute returning officer.

## **10 Conduct of election of county councillors for landward area.**

- (1) Subject to the provisions of this Act, an election of a county councillor for an electoral division shall be conducted in accordance with the provisions of the Second Schedule to this Act.
- (2) References in the Second Schedule to this Act to county councillors shall be construed as references to county councillors for the landward area of a county.

## **11 Expenses of election of county councillors for landward area.**

- (1) All expenses properly incurred by the returning officer or the county clerk in relation to the holding of an election of county councillors for the landward area (including expenses properly incurred by the returning officer or the county clerk in any legal proceedings arising out of the election), not exceeding such scale as the county council may fix and as may be applicable, shall be paid (so far as not otherwise provided by law) by the county council and defrayed as part of the general expenses of the council relating exclusively to the landward area of the county.
- (2) Before a poll is taken at any such election, the county council shall at the request of the returning officer advance to him such sum not exceeding ten pounds for every thousand electors at the election as he may require.

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*Election of County Councillors representing Burghs.*

**12 Election of county councillors representing burghs.**

Subject to the provisions of this Act relating to fishing burghs, county councillors representing a burgh within the county shall be elected by the town council of the burgh from among their own number at a meeting of the town council to be held in the month of November (after the annual election of town councillors in that month) in the year in which the election of county councillors representing the landward area is appointed to take place.

*Alteration of Number of County Councillors and of Electoral Divisions.*

**13 Alteration of number of county councillors and of electoral divisions.**

Subject to the provisions of this Act relating to the publication of orders under this Part of this Act, the Secretary of State may, on the representation of a county council or the town council of a burgh within the county or a majority of the county councillors representing the landward area, and shall, so far as necessary for the purpose of giving effect to a direction under paragraph (d) of subsection (2) of section four of this Act, by order alter—

- (a) the number of county councillors; or
- (b) the assignment of county councillors to the landward area and to each of the burghs within the county; or
- (c) the number or contents and boundaries of the electoral divisions in the county;

and in making any such alteration the Secretary of State shall have regard to the population, the distribution and pursuits of the population, the area, and any other circumstances of the landward area and the burghs respectively which appear to him to affect the matter.

*Convener and Vice-Convener of County.*

**14 Convener and vice-convener of county.**

- (1) The chairman of a county council, who shall be called the convener of the county, shall be elected by the county council from among the county councillors.
- (2) The term of office of the convener of the county shall be from the day of his election as provided in the next succeeding subsection until the second Tuesday of November in the third year after the day of his election.
- (3) The election of the convener of the county shall be the first business transacted at the first meeting of the county council held after the election of county councillors, and at that meeting until the convener is elected the returning officer at the election and failing him such councillor as may be selected by the meeting shall preside.
- (4) The convener of the county shall, by virtue of his office unless disqualified by any Act, be a justice of the peace for the county, but before acting as such justice he shall take the oaths required by law to be taken by a justice of the peace for the county, unless he is at the date on which he is elected convener a justice of the peace for the county and has taken such oaths or unless the provisions of the Ex-officio Justices of the Peace (Scotland) Act, 1898, apply in his case.

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- (5) Every county council shall at the first meeting of the council held after the election of county councillors elect a county councillor to be vice-convener of the county who shall hold office until the expiration of the term of office of the convener and, subject to any standing orders made from time to time by the council, anything authorised or required to be done by, to or before the convener may, in the absence of the convener or in the event of his being unable to act for any reason or of a vacancy in the office of convener, be done by, to or before the vice-convener, except that he shall not, by virtue of being vice-convener, act as a justice of the peace.
- (6) A person holding the office of convener or vice-convener may at any time resign that office by a notice in writing signed by him and delivered to the county clerk and the 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.
- (7) A person holding the office of convener or vice-convener shall cease to hold that office upon ceasing to be a county councillor.
- (8) A casual vacancy in the office of convener or vice-convener of the county, whether caused by death or resignation from the office or by the holder of the office ceasing to be a county councillor, shall be filled as soon as practicable by the county council at a meeting of the council the notice of which specifies the filling of the vacancy as an item of business, and the person appointed to fill the vacancy shall hold office only so long as the convener or vice-convener in whose place he was appointed would have held office.