



# Local Government (Scotland) Act 1947

## 1947 CHAPTER 43

### PART I

#### CONSTITUTION AND ELECTIONS.

##### DISTRICT COUNCILS.

###### *District Council Schemes and Constitution of District Councils.*

#### **38 District council schemes.**

- (1) Save as in this section provided, every county council shall have a scheme made by the county council and approved by the Secretary of State (in this Act called " a district council scheme ") dividing the landward area of the county into districts for the purposes of district councils in such manner that each district shall comprise one or more electoral divisions.
- (2) The district council scheme made and approved under section twenty-five of the Local Government (Scotland) Act, 1929, and in force in a county at the commencement of this of shall, until it is revoked or altered under this Part of this Act or Part VI of this Act, be the district council scheme for the county.
- (3) A district council scheme for a county may be revoked or altered by a district council scheme prepared and submitted to the Secretary of State for his approval by the county council, and the council shall, so far as necessary for the purpose of giving effect to a direction by the Secretary of State under proviso (iii) to subsection (2) of the next but one succeeding section, prepare and submit to the Secretary of State forthwith a scheme amending the district council scheme.

The Secretary of State may approve the scheme either as submitted or with such modifications and amendments as he thinks proper and on approval the scheme shall have effect, and any such scheme may make provision for doing anything which may be required or be expedient for the proper carrying into effect of the scheme, including without prejudice to the said generality provision for financial adjustments in the case of a. scheme altering the boundaries of a district.

---

*Status: This is the original version (as it was originally enacted). This item of legislation is currently only available in its original format.*

---

- (4) In the case of each of the counties of Kinross and Nairn, the provisions of this section and of so much of section one of this Act as refers to the division of the landward area of every county into districts shall not apply unless the county council of the county so determine, and until the council so determine, references in this Act or any other enactment or any statutory order to a district council and to the district of a district council shall be construed as references to the county council and to the county respectively:

Provided that if the county council of either of the said counties at any time determine that the county shall be divided into districts, the county council shall make a district council scheme and submit the same to the Secretary of State for his approval, and the provisions of the immediately preceding subsection shall, subject to any necessary modifications, apply to any such scheme as they apply to a scheme altering the boundaries of a district.

- (5) A district council scheme under this section shall not be made by a county council except at a meeting of the council the notice of which specifies the making of the scheme as an item of business.
- (6) The county council shall cause to be published in a newspaper circulating in the district to which a scheme will apply a notice that the scheme is being submitted to the Secretary of State for his approval, and the Secretary of State shall consider any objections and representations made to him with respect to the scheme.

### **39 Establishment and constitution of district councils.**

- (1) For every district there shall be a district council which shall have all such functions as are vested in the district council by this Act or otherwise.
- (2) The district council shall be a body corporate by the name of the district council with the addition of the name of the district shall have perpetual succession and may have a common seal and may sue and be sued under that name.
- (3) The district council shall consist of—
- (a) the county councillors representing the electoral divisions within the district who shall be ex officio members of the district council; and
  - (b) the district councillors who shall be elected for the electoral divisions within the district or for the wards forming part thereof (in this Act referred to as the elected district councillors).
- (4) The number of district councillors for the district and the apportionment of the elected district councillors among the electoral divisions or wards within the district shall be such as are specified in the district council scheme for the time being in force.

*District Councillors.*

### **40 Term of office of district councillors.**

- (1) An ex officio member of a district council shall hold office as a member of the council only so long as he is a county councillor representing an electoral division within the district.

---

*Status: This is the original version (as it was originally enacted). This item of legislation is currently only available in its original format.*

---

- (2) The term of office of an elected district councillor shall be three years, and in every third year on the second Tuesday of November the whole number of elected district councillors shall retire from office and their place shall be filled by election :

Provided that—

- (i) the elected district councillors at the commencement of this Act shall go out of 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;
- (ii) on any electoral division or ward of an electoral division within a district being wholly included within the boundaries of a burgh, the elected district councillors representing the electoral division or ward shall from the date on which the inclusion takes effect cease to hold office, and the number of elected district councillors for the district shall be reduced accordingly;
- (iii) where a part only of an electoral division or ward of an electoral division is so included, the elected district councillors for that electoral division or ward shall continue to hold office until the Secretary of State otherwise directs.

#### *Election of Elected District Councillors.*

#### **41 Day of election of elected district councillors.**

The election of elected district councillors 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.

#### **42 District council elections.**

- (1) There shall be a separate election of elected district councillors for each electoral division within a district or, where an electoral division is divided into wards, for each ward thereof.
- (2) Where a district comprises only one electoral division and that division is not divided into wards, there shall be one election of elected district councillors for the whole district.

#### **43 Division of electoral division into wards.**

- (1) The number, contents and boundaries of wards into which an electoral division within a district is divided shall, subject to any alteration made by a district council scheme or otherwise under this Part of this Act or Part VI of this Act, remain the same as at the commencement of this Act.
- (2) A district council scheme may—
  - (a) divide an electoral division into wards and define the contents and boundaries of the wards; or
  - (b) alter the number or contents and boundaries of wards in an electoral division; or
  - (c) abolish the division of an electoral division into wards;

---

*Status: This is the original version (as it was originally enacted). This item of legislation is currently only available in its original format.*

---

and for the purpose of giving effect thereto may determine or alter the number of elected district councillors to be elected for each ward or apportion the existing elected district councillors for an electoral division among the wards thereof, and such a scheme may provide for the determination of any question arising in connection therewith or for doing anything that is considered necessary or proper for giving full effect to the scheme so far as referring to the matters aforesaid:

Provided that a county council shall before preparing a district council scheme making any provision under this subsection consult with the district council of the district concerned.

- (3) In dividing an electoral division into wards or altering the number or contents and boundaries of wards in an electoral division or determining or altering the number of district councillors to be elected for each ward or apportioning the existing elected district councillors for an electoral division among the wards under this section, regard shall be had to the number of local government electors and any other circumstances which appear to affect the matter.

#### **44 Electors.**

- (1) The electors at an election of elected district councillors shall be the persons entitled, by virtue of the provisions of the Representation of the People Acts, to vote at that election.
- (2) Every elector may give one vote and no more for any one candidate:

Provided that—

- (a) the total number of votes which any person may give shall not exceed the number of elected district councillors to be elected for the electoral division or ward in which he votes; and
- (b) a person shall not vote at an election in more than one electoral division within a district or in more than one ward in any electoral division divided into wards.

#### **45 Conduct of election of elected district councillors.**

- (1) Subject to the provisions of this Act, an election of elected district councillors shall be conducted in accordance with the provisions of the Second Schedule to this Act, and the county council of the county shall make due provision for the election of elected district councillors, and, subject to the provisions of the immediately succeeding section, shall pay the expenses incurred in relation thereto.
- (2) References in Part IV of the Second Schedule to this Act to district councillors shall be construed as references to elected district councillors.
- (3) A county council may refer to the Secretary of State any question that may arise as to the performance of their duty under Part IV of the Second Schedule to this Act, and the determination of the Secretary of State shall be final.

#### **46 Expenses of election of elected district councillors.**

The expenses incurred in relation to the election of elected district councillors by a county council, as ascertained and apportioned by agreement between the county council and the district council concerned or failing agreement by the Secretary of

---

*Status: This is the original version (as it was originally enacted). This item of legislation is currently only available in its original format.*

---

State, shall be repaid to the county council by the district council and be defrayed by the district council as part of their general expenses.

*Chairman and Vice-Chairman of District Council.*

**47 Chairman and Vice-Chairman of district council.**

- (1) The chairman of a district council shall be elected by the district council from among the district councillors.
- (2) The term of office of the chairman of the district council shall be from the day of his election to that office 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 chairman of the district council shall be the first business transacted at the first meeting of the council held after the election of district councillors, and at that meeting, until the chairman is elected, such district councillor as may be selected by the meeting shall preside.
- (4) The chairman of a district council shall, by virtue of his office unless disqualified by any Act, be a justice of the peace for the county within which the district is situated, 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 chairman 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.
- (5) Every district council shall at the first meeting of the council held after the election of district councillors elect a district councillor to be vice-chairman of the district council, who shall hold office until the expiration of the term of office of the chairman, and subject to any standing orders made from time to time by the council anything authorised to be done by, to or before the chairman may, in the absence of the chairman or in the event of his being unable to act for any reason, or of a vacancy in the office of chairman, be done by, to or before the vice-chairman except that he shall not by virtue of being vice-chairman act as a justice of the peace.
- (6) A person holding the office of chairman or vice-chairman of a district council may at any time resign that office by a notice in writing signed by him and delivered to the clerk of the council 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 chairman or vice-chairman of a district council shall cease to hold that office upon ceasing to be a district councillor.
- (8) A casual vacancy in the office of chairman or vice-chairman of a district council, whether caused by death or resignation from the office or by the holder of the office ceasing to be a district councillor, shall be filled as soon as practicable by the district council at a meeting of the council of which notice specifying that the filling of the vacancy is to be considered has been given to each councillor not less than seven days before the date of the meeting, and the person appointed to fill the vacancy shall hold office only so long as the chairman or vice-chairman in whose place he is appointed would have held office.

---

*Status: This is the original version (as it was originally enacted). This item of legislation is currently only available in its original format.*

---

*General.*

**48 Determination by lot in case of equality of votes in certain matters.**

Where at a meeting of a local authority or a joint committee or joint board or any committee or sub-committee thereof held under this Act or held under any other enactment or any statutory order which does not contain any provision on the subject an equal number of votes is given for two or more persons—

- (a) in the election of a member of the authority, joint committee, joint board, committee or sub-committee to any office or of a person to be a member of any committee or sub-committee; or
- (b) in the selection of a member of the authority, joint committee, joint board, committee or sub-committee to preside in the absence of the chairman (by whatever name he may be known); or
- (c) in the election by a local authority of a person to fill a casual vacancy on the authority,

the meeting shall determine by lot which of the persons, for whom an equal number of votes is given, shall be elected or selected, as the case may be.

**49 Publication of orders by Secretary of State under Part I.**

- (1) The Secretary of State before making an order under this Part of this Act shall cause a draft of the proposed order or a notice setting forth the place at which and the period during which a copy of the draft may be inspected free of charge to be published in such manner as he shall determine in order to make the same known to all persons interested and shall consider any objections and representations respecting the proposed order and may if he sees fit to do so cause a local inquiry to be held.
- (2) Any order made by the Secretary of State under this Part of this Act or a notice setting forth the place at which and the period during which a copy of the order may be inspected free of charge shall as soon as may be published by the clerk of the local authority to whom the order applies in the Edinburgh Gazette and in a newspaper circulating in the area to which the order relates.