



Local Government (Scotland) Act 1947

1947 CHAPTER 43

PART XVIII

DEAN OF GUILD COURT, DEAN OF GUILD, &C.

321 Constitution of dean of guild court.

- (1) Subject to the provisions of this section, the dean of guild court for any burgh having such a court at the commencement of this Act shall continue to be constituted in accordance with the law and practice then existing relating thereto.
- (2) The town council of any burgh having no dean of guild court at the commencement of this Act shall as soon as practicable thereafter establish a dean of guild court which shall consist of the dean of guild who shall be elected as provided in the immediately succeeding section of this Act, and not less than two nor more than four councillors who shall be elected annually as provided in the said section.
- (3) As from the first Friday after the first annual election of town councillors held after the commencement of this Act, a dean of guild court established under section two hundred and two of the Burgh Police (Scotland) Act, 1892, shall cease to be constituted in accordance with the provisions of section two hundred and three of that Act and shall be constituted in accordance with the provisions of the immediately preceding subsection.
- (4) Subject to the provisions of this Part of this Act, the town council of any burgh having a dean of guild court constituted otherwise than in accordance with the provisions of subsection (2) of this section and to which the immediately preceding subsection does not apply may on passing a resolution, to that effect provide that, in lieu of the constitution of the court then existing, the court shall be constituted in accordance with the provisions of the said subsection (2), so however that nothing in or done under this subsection shall alter or affect the constitution, rights and privileges of any such court so far as regards members, lymers or assessors thereof who are appointed otherwise than exclusively by the town council.
- (5) The quorum at a meeting of a dean of guild court shall be two members.

Status: This is the original version (as it was originally enacted).

- (6) If the dean of guild is absent from any meeting of the dean of guild court, the members present shall elect one of their number to preside at the meeting.
- (7) The dean of guild or other member presiding shall have a casting vote as well as a deliberative vote.
- (8) Interlocutors pronounced at a meeting of the dean of guild court shall be signed by the member presiding, but deliverances appointing service or intimation of any petition, motion or other step of procedure or fixing a diet for hearing parties may be pronounced and signed by the clerk or by any member of the court without the necessity of a meeting.
- (9) No member of a dean of guild court shall sit as such when any matter in which he is personally interested is under consideration.

322 Election of dean of guild and members of dean of guild court by town council and casual vacancies.

- (1) Where in any burgh there is at the commencement of this Act a dean of guild who is elected otherwise than exclusively by the town council, the law and practice then existing relating to his election shall continue, and in any other case the town council of the burgh shall elect a councillor to be the dean of guild, and the whole provisions of this Act relating to the election, term of office, resignation and filling of vacancies applicable to a bailie shall be applicable to the councillor so elected, so however that a casual vacancy in the offices of dean of guild shall in every case be filled as soon as practicable.
- (2) The members of the dean of guild court elected by the town council (other than the dean of guild where he is elected by the council) shall be elected by the council at the meeting held on the first Friday after the day of the annual election of councillors or at an adjournment of that meeting and shall, so long as they remain councillors, hold office until the first Friday after the next annual election of councillors.
- (3) If the town council fail to elect any such member of the dean of guild court at the meeting mentioned in the immediately preceding subsection, they shall fill the vacancy as soon as practicable thereafter.
- (4) If any member of the dean of guild court elected by the town council (other than the dean of guild) dies or resigns from office as a member of the court or ceases to be a councillor, the council shall as soon as practicable after the vacancy arises elect a councillor in his place, and such councillor shall hold office during the remainder of the period during which the person in whose place he is elected would have held office.
- (5) The proceedings of a dean of guild court shall not be invalidated by any vacancy among their number or by any defect in the election or qualification of any member thereof.

323 Committees of dean of guild court.

- (1) The dean of guild court may appoint a committee consisting wholly of members of the court for the purpose of inspecting buildings or streets or disposing of incidental questions arising in any case before the court, and may for any such purpose delegate any of their powers to the committee.

- (2) The convener of any such committee shall be elected and the quorum fixed by the court, and the convener shall preside and shall have a casting vote as well as a deliberative vote.

324 Jurisdiction of dean of guild court.

A dean of guild court whether constituted under this Act or otherwise shall have all the rights, powers, privileges and jurisdictions possessed by virtue of statute or otherwise by dean of guild courts in royal burghs.

325 Master of works for dean of guild court.

- (1) The town council may appoint a master of works in connection with the dean of guild court and may pay to him such reasonable salary as the council may determine.
- (2) The master of works shall hold office during the pleasure of the town council.
- (3) It shall be the duty of the master of works to report to the dean of guild court upon all plans lodged with petitions to the court, to see that the orders made by the court are duly carried into execution, from time to time to inspect the works in progress in execution of plans for which warrant has been granted by the court and to report to the prosecutor in the court any deviation therefrom, and also to perform any other duties which he may be required to perform by the town council.
- (4) The master of works shall not be connected directly or indirectly with or interested in any branch of the building trade in the locality or give any assistance or receive any fees in connection with plans to be submitted to the court.

326 Clerk and prosecutor of dean of guild court.

- (1) Subject to the provisions of the succeeding subsection, the town clerk shall act as clerk of the dean of guild court and the burgh prosecutor shall act as prosecutor in the dean of guild court.
- (2) Where the town clerk or a depute town clerk or a partner of or a person in the employment of the town clerk or a depute town clerk appears on behalf of any party in connection with any opposed proceedings before the dean of guild court, the court shall appoint an independent person to be legal assessor in connection with such proceedings, and where the town clerk so appears the court shall appoint either the legal assessor or some other person to be clerk of the court in connection with the proceedings, and the expenses incurred by the court in connection with any such appointments shall be defrayed by the town council.

327 Rules as to holding of courts.

The town council may make rules regulating the dates of meetings of the dean of guild court, so however that dean of guild courts shall be held from time to time and as often as may be necessary in some convenient place in the burgh.

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328 Expenses of dean of guild court.

The town council shall provide such accommodation, with furniture, books and other things, as is required for the transaction of the business of the dean of guild court of the burgh, and shall make payment of the salaries and expenses of the officers of the court.

329 Saving for cities.

The foregoing provisions of this Part of this Act shall not apply in the case of the cities of Edinburgh, Glasgow, Dundee and Aberdeen.

330 Dean of guild, and &c. of certain burghs to be members of town council.

- (1) Notwithstanding anything in this Act, the persons elected to the office of dean of guild by the several guildries of the cities of Aberdeen, Dundee and Perth shall by virtue of their said elections be constituent members of the town councils of the said cities respectively, and shall as such exercise all the functions exercised immediately before the commencement of this Act by the dean of guild in the said cities respectively.
- (2) Notwithstanding anything in this Act, the persons elected to the offices of dean of guild and deacon convener or convener of trades by the guild brethren and convenery respectively in the city of Edinburgh and to the offices of dean of guild and deacon convener by the merchants house and trades house respectively in the city of Glasgow shall by virtue of their said election be constituent members of the town councils of the said cities respectively and shall exercise all the functions exercised immediately before the commencement of this Act by such office bearers in these cities.
- (3) The provisions of this Act relating to the qualification, retirement and election of town councillors shall not be applicable to such persons, and in computing the number of town councillors or the number to retire, the said persons shall not be reckoned as councillors.

331 Disqualifications in case of dean of guild, and &c.

A person shall be disqualified for being elected to or holding the office of dean of guild or deacon convener or convener of trades, if he is a person whose estate has been sequestrated by a competent court in Scotland or who has been adjudged bankrupt elsewhere than in Scotland:

Provided that—

- (a) the disqualification attaching to a person whose estate has been sequestrated shall cease if and when—
 - (i) the sequestration of his estate is recalled or reduced; or
 - (ii) he obtains his discharge from a competent court;
- (b) the disqualification attaching to a person by reason of his having been adjudged bankrupt shall cease if and when—
 - (i) the bankruptcy is annulled; or
 - (ii) he is discharged.