



Scottish Local Government (Elections) Act 2002

2002 asp 1

Local government elections

1 Synchronisation of polling at local government and Scottish Parliamentary elections

In section 5(3) of the Local Government etc. (Scotland) Act 1994 (c. 39) (“the 1994 Act”) (ordinary elections of councillors to take place every third year after 1999), for “every third year thereafter” there is substituted “thereafter in the years in which, under section 2(2) of the Scotland Act 1998 (c. 46), polls at ordinary general elections for membership of the Scottish Parliament fall to be held”.

2 Power to synchronise polling at local government and Scottish Parliamentary elections

(1) In the Representation of the People Act 1983 (c. 2) (“the 1983 Act”), after section 43(1A) there is inserted—

“(1B) Despite subsection (1) above—

- (a) if the poll at an ordinary general election is, under section 2(5) of the Scotland Act 1998 (c. 46) (“the 1998 Act”) (which enables the advancement or postponement, for up to a month, of the date of the poll at such an election), to be held on the day proposed by the Presiding Officer for the purposes of that provision; or
- (b) if an extraordinary general election is, under section 3(2) of that Act (which enables the holding of such an election), to be held on a day occurring within the relevant period, the Scottish Ministers may, by order, provide that the poll at the ordinary local election to be held that year shall be held on that day;

(1C) In subsection (1B) above—

“extraordinary general election” means a general election for membership of the Scottish Parliament held under section 3 of the 1998 Act;

Status: This is the original version (as it was originally enacted).

“ordinary general election” means a general election for membership of the Scottish Parliament held under section 2 of the 1998 Act;

“ordinary local election” means an ordinary election of councillors for local government areas in Scotland held in accordance with section 5 of the 1994 Act and this Act;

“relevant period” means the period beginning with 11th March in a year in which an ordinary local election falls to be held and ending with the day which immediately precedes the first Thursday in May in that year, and references to the time when a local election falls or does not fall to be held are to be construed in accordance with section 5(3) of the 1994 Act.

(1D) An order under subsection (1B) above shall be made by statutory instrument.”.

- (2) In section 43(2)(b) of the 1983 Act (which, amongst other things, postpones the poll for a local government election which would otherwise take place on a public holiday), after “subsection (1)” there is inserted “or (1B)”.

3 Provisions consequential upon synchronisation of polling

- (1) Where a casual vacancy in the office of councillor has occurred during the period beginning on 2 November 2001 and ending on the date on which this Act comes into force—

- (a) an election to fill the vacancy shall, notwithstanding section 37(2) of the Local Government (Scotland) Act 1973 (c. 65) (“the 1973 Act”) (which provides that a casual vacancy occurring within six months of the next ordinary local government election is not to be filled until that election), be held within three months of the date on which this Act comes into force, and the day on which the poll is to be held at the election shall be fixed by the returning officer; and
- (b) section 37(1) of the 1973 Act (filling of vacancies occurring in the office of councillor) shall not apply in relation to that vacancy.

- (2) In section 37(2) of the 1973 Act—

- (a) after “the”, where first occurring, there is inserted “relevant”; and
- (b) the words “of the next ordinary election” are repealed.

- (3) After section 37(2) of the 1973 Act there is inserted—

“(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.”.

4 Revision of provisions relating to timing of elections

- (1) In subsection (3) of section 4 of the 1994 Act (which provides as to the duration of the terms of office of conveners and deputy conveners of councils), after “beyond” there is inserted “the day on which the poll is held at”.

- (2) In subsection (4) of section 5 of the 1994 Act (which provides for the retirement of councillors on the day of ordinary elections), for “of” there is substituted “on which the poll is held at”.

- (3) In section 43 of the 1983 Act—
- (a) in subsection (1), for “day of” there is substituted “day on which the poll is held at an”;
 - (b) in subsection (2), for “(Scotland) Act 1973” there is substituted “etc. (Scotland) Act 1994”;
 - (c) in subsection (3)—
 - (i) after “Where” there is inserted “the day on which the poll is held at”;
 - (ii) for “election” where secondly occurring, there is substituted “poll”;
 - and
 - (iii) for “1973” there is substituted “1994”.
- (4) In paragraph (d) of section 36 of the 1973 Act, for “date of” there is substituted “day on which the poll was held at”.
- (5) In subsection (1) of section 37 of the 1973 Act, for “day of” there is substituted “day on which the poll is to be held at the”.
- (6) The amendments made—
- (a) by paragraphs (a) and (c)(i) and (ii) of subsection (3), and subsections (4) and (5), above are to be treated as always having had effect;
 - (b) by paragraphs (b) and (c)(iii) of subsection (3) above are to be treated as having had effect since the coming into force of section 5 (elections and terms of office of councillors) of the 1994 Act.