



# Local Electoral Administration and Registration Services (Scotland) Act 2006

2006 asp 14

**The Bill for this Act of the Scottish Parliament was passed by the Parliament on 22nd June 2006 and received Royal Assent on 1st August 2006**

An Act of the Scottish Parliament to make provision in relation to the administration and conduct of local government elections; to reorganise local registration services; to amend the law in relation to the registration of births and deaths and the procedure in relation to marriages and civil partnerships; to provide for the recording of certain events occurring outwith Scotland in relation to persons who have a Scottish connection; to make available certain information and records held by the Registrar General; and for connected purposes.

## PART 1

### LOCAL GOVERNMENT ELECTIONS

*Performance of returning officers in relation to elections etc.*

#### **1 Setting of performance standards**

- (1) The Scottish Ministers may—
  - (a) determine standards of performance for returning officers, and
  - (b) publish, in such form and in such manner as they consider appropriate, the standards so determined.
- (2) The standards of performance are to be such standards as the Scottish Ministers think ought to be achieved by returning officers in the administration of a local government election.
- (3) When the Scottish Ministers publish standards under subsection (1) they must lay a copy of the published standards before the Scottish Parliament.

## **2 Returns and reports on performance standards**

- (1) The Scottish Ministers may issue directions to returning officers to provide the Scottish Ministers with such reports regarding their level of performance against the standards determined under section 1(1) as may be specified in the direction.
- (2) A direction under subsection (1)—
  - (a) must specify the returning officer or officers to whom it is issued,
  - (b) may require the report or reports to relate to such elections as may be specified in the direction, and
  - (c) may require the report or reports to be provided in a form specified in the direction.
- (3) A report provided to the Scottish Ministers in pursuance of subsection (1) may be published by the returning officer to whom it relates.
- (4) The Scottish Ministers must prepare and publish (in such manner as they may determine) assessments of the level of performance by returning officers against the standards determined under section 1(1).
- (5) An assessment under subsection (4)—
  - (a) must specify the returning officer or officers to whom it relates,
  - (b) must specify the period to which it relates, and
  - (c) may specify the elections to which it relates.
- (6) The Scottish Ministers must not prepare an assessment under subsection (4) unless they have received reports in pursuance of subsection (1) from the returning officer or officers for the matters to which the assessment relates.
- (7) Before publishing an assessment under subsection (4), the Scottish Ministers must—
  - (a) provide to each returning officer a copy of those parts of the assessment which relate to that returning officer, and
  - (b) have regard to any comments made by the returning officer regarding the factual accuracy of the assessment.

## **3 Provision of information about expenditure on elections**

- (1) The Scottish Ministers may issue a direction to a returning officer to provide the Scottish Ministers with such expenditure information as may be specified in the direction.
- (2) Expenditure information is information relating to expenditure in connection with the local government election or elections for which a returning officer is appointed.
- (3) A direction under subsection (1)—
  - (a) may require the information to relate to such elections as may be specified in the direction, and
  - (b) may require the information to be provided—
    - (i) in such form, and
    - (ii) by such time,as may be so specified.

#### **4 Correction of procedural errors**

- (1) A returning officer for a local government election may take such steps as the officer thinks appropriate to remedy any act or omission on the officer's part, or on the part of a relevant person, which—
  - (a) arises in connection with any function the returning officer or relevant person has in relation to the election, and
  - (b) is not in accordance with—
    - (i) provision as to the conduct of elections of councillors made in an order under section 3(1) of the Local Governance (Scotland) Act 2004 (asp 9), or
    - (ii) any other requirements applicable to the election.
- (2) But a returning officer may not under subsection (1) re-count the votes given at an election after the result has been declared.
- (3) For the purposes of subsection (1), each of the following is a relevant person—
  - (a) an electoral registration officer,
  - (b) a presiding officer,
  - (c) a person providing goods or services to the returning officer,
  - (d) a deputy of any person mentioned in paragraph (a) or (b),
  - (e) a person appointed to assist or, in the course of the person's employment, assisting any person mentioned in paragraphs (a) to (c) in connection with any function that person has in relation to the election.
- (4) A returning officer for a local government election is not guilty of an offence under section 63 of the 1983 Act (breach of official duty) by virtue of an act or omission in breach of the officer's official duty if the officer remedies that act or omission in full by taking steps under subsection (1) of this section.
- (5) Subsection (4) does not affect any conviction, or any penalty imposed, before the date on which the act or omission is remedied in full.

#### *Access to election documents*

#### **5 Access to election documents**

- (1) This section and sections 6 and 7 apply in relation to a local government election.
- (2) The proper officer in relation to the election must—
  - (a) make relevant election documents available for inspection by members of the public, and
  - (b) in relation to such description of documents mentioned in paragraph (a) as the Scottish Ministers may by regulations prescribe, supply, on the request of a member of the public, copies of or extracts from the documents.
- (3) The proper officer must, on the request of any of the following persons, supply the person with a copy of the marked copies of the register, the postal voters list, the list of proxies and the proxy postal voters list relating to the election—
  - (a) a registered party,
  - (b) a person who was a candidate at the election.
- (4) The Scottish Ministers may by regulations impose conditions in relation to—

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- (a) the inspection of any document in pursuance of subsection (2)(a),
  - (b) the supply of any document or part of a document in pursuance of subsection (2)(b),
  - (c) the supply of any document or part of a document in pursuance of subsection (3).
- (5) The Scottish Ministers may by regulations also make provision—
- (a) as to the form in which any such document or part is supplied,
  - (b) for the payment of a fee in respect of the supply of a document or part.
- (6) Conditions which may be imposed for the purposes of subsection (4)(a) or (b) include conditions as to—
- (a) whether a person may take a copy of any document which the person is permitted to inspect,
  - (b) the manner in which any such copy is to be taken,
  - (c) the purposes for which information contained in any document or part of a document which is inspected or supplied in pursuance of subsection (2) may be used.
- (7) Conditions which may be imposed for the purposes of subsection (4)(b) or (c) include conditions as to the extent to which a person to whom a document or part of a document has been supplied may—
- (a) supply that document or part to any other person,
  - (b) disclose to any other person any information contained in the document or part,
  - (c) use any such information for a purpose other than that for which the document or part was supplied to the person.
- (8) The Scottish Ministers may by regulations also impose conditions corresponding to those mentioned in subsection (7) in respect of persons who have obtained a document or part of a document mentioned in subsection (3)—
- (a) which was supplied to another person in pursuance of subsection (3), or
  - (b) otherwise than in accordance with regulations under this section.

## **6 Access to election documents: contravention of regulations**

- (1) A person who fails to comply with any condition imposed in pursuance of regulations under section 5 is guilty of an offence.
- (2) A person—
- (a) who is an appropriate supervisor of another person who fails to comply with such a condition, and
  - (b) who failed to take appropriate steps,
- is guilty of an offence.
- (3) The other person referred to in subsection (2)(a) is not guilty of an offence under subsection (1) if that person has complied with all the requirements imposed on that person by the appropriate supervisor.
- (4) A person who does not have an appropriate supervisor is not guilty of an offence under subsection (1) if the person takes all reasonable steps to ensure that the person complies with the conditions.

- (5) In subsections (2), (3) and (4)—
- (a) an appropriate supervisor in relation to another person is a person who is a director of a company or concerned in the management of an organisation in which the other person is employed or under whose direction or control that person is,
  - (b) appropriate steps are such steps as it was reasonable for the appropriate supervisor to take to secure the operation of procedures designed to prevent, so far as reasonably practicable, the occurrence of a failure to comply with the conditions.
- (6) A person guilty of an offence as mentioned in subsection (1) or (2) is liable on summary conviction to a fine not exceeding level 5 on the standard scale.

## **7 Access to election documents: supplementary**

- (1) The following provisions apply for the purposes of the interpretation of sections 5 and 6 and this section.
- (2) The proper officer in relation to an election is such officer of the local authority in whose area the election is held as is appointed by the local authority for the purposes of those sections.
- (3) The relevant election documents are such documents relating to the election as the proper officer is required by or under any enactment to retain for any period except—
- (a) ballot papers,
  - (b) completed corresponding number lists,
  - (c) certificates as to employment on the day of the election.
- (4) A party is a registered party if it is registered for the purposes of Part 2 of the Political Parties, Elections and Referendums Act 2000 (c. 41).
- (5) The marked copy of the register is a copy of the register of electors marked in the prescribed manner.
- (6) The marked copy of the list of proxies is a copy of that list marked in the prescribed manner.
- (7) The marked copy of the postal voters list or the proxy postal voters list is a copy of that list marked in the prescribed manner.
- (8) The completed corresponding number list is a list prepared and completed in the prescribed manner.
- (9) In this section “prescribed” means prescribed by an order made by the Scottish Ministers.

### *Observers*

## **8 Observers: individuals**

- (1) A person who is aged 16 or over may apply to the returning officer for a local government election for permission to be an observer at any of the following proceedings relating to the election—

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- (a) proceedings at the issue or receipt of postal ballot papers,
  - (b) proceedings at the poll,
  - (c) proceedings at the counting of votes.
- (2) If the returning officer grants the permission sought, the applicant may attend and observe the proceedings referred to in subsection (1).
- (3) An application under subsection (1) must be made in the manner specified in the code of practice issued under section 11.
- (4) The returning officer may at any time revoke any permission granted under this section.
- (5) If the returning officer—
  - (a) refuses an application under subsection (1), or
  - (b) revokes the permission granted under this section,the officer's decision together with reasons for the refusal or revocation must be given to the applicant.
- (6) The decision and reasons under subsection (5) must be given by the returning officer in the manner specified in the code of practice issued under section 11.
- (7) The rights conferred by subsection (2) are subject to any enactment which regulates attendance at the proceedings in question.

## **9 Observers: organisations**

- (1) An organisation may apply to the returning officer for a local government election for permission for nominated members of the organisation to be observers at any of the following proceedings relating to the election—
  - (a) proceedings at the issue or receipt of postal ballot papers,
  - (b) proceedings at the poll,
  - (c) proceedings at the counting of votes.
- (2) An application under subsection (1) must specify the names of the members who are nominated and such other information relating to them as is specified in the code of practice issued under section 11.
- (3) If the returning officer grants the permission sought, the members of the organisation nominated in the application may attend and observe the proceedings referred to in subsection (1).
- (4) But, in granting the permission sought, the returning officer may impose a limit on the number of observers nominated by the organisation who may attend proceedings or particular proceedings by virtue of this section at any one time.
- (5) An application under subsection (1) must be made in the manner specified in the code of practice issued under section 11.
- (6) If the returning officer refuses an application under subsection (1), the officer must at the same time give reasons for the refusal to the organisation.
- (7) The returning officer may at any time revoke any permission granted under this section.

- (8) If the returning officer revokes any such permission, the officer must—
  - (a) at the same time, give reasons for the revocation to the nominated member,
  - (b) as soon as practicable, give the reasons to the organisation.
- (9) Reasons under subsection (6) or (8) must be given by the returning officer in the manner specified in the code of practice issued under section 11.
- (10) The rights conferred by subsection (3) are subject to any enactment which regulates attendance at the proceedings in question.

## **10 Attendance of observers**

- (1) A relevant officer may limit the number of observers who may be present at any proceedings at any one time in pursuance of section 8 or 9.
- (2) In this section and section 11—
  - “observers” means persons entitled to exercise the rights conferred by section 8(2) or 9(3),
  - “a relevant officer” means—
    - (a) in the case of proceedings at a polling station, the presiding officer,
    - (b) in the case of any other proceedings, the returning officer,
    - (c) such other person as a person mentioned in paragraph (a) or (b) authorises for the purposes of the proceedings mentioned in that paragraph.

## **11 Code of practice on attendance of observers at elections etc.**

- (1) The Scottish Ministers must prepare a code of practice on the attendance of observers at local government elections.
- (2) The code must in particular—
  - (a) specify the manner in which applications under sections 8(1) and 9(1) are to be made to the returning officer,
  - (b) specify the manner in which decisions and reasons must be given by the returning officer under sections 8(5) and 9(6) and (8),
  - (c) give guidance to returning officers as to the criteria to be taken into account by them in determining applications under sections 8(1) and 9(1),
  - (d) give guidance to returning officers as to the criteria to be taken into account by them in determining whether to revoke any permission under section 8(4) or 9(7),
  - (e) give guidance to relevant officers as to the exercise of the power conferred by section 10(1),
  - (f) give guidance to such officers as to the exercise, in relation to observers, of any power under any enactment to control the number of persons present at any proceedings relating to a local government election,
  - (g) give guidance to returning officers and observers on the exercise of the rights conferred by sections 8(2) and 9(3).
- (3) The code may make different provision for different purposes.
- (4) The Scottish Ministers must—

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- (a) lay the code before the Scottish Parliament, and
  - (b) publish the code in such manner as they may determine.
- (5) Returning officers and other relevant officers must have regard to the code in exercising any function conferred by section 8, 9 or 10.
- (6) The Scottish Ministers may at any time revise the code.
- (7) Subsections (4) and (5) apply in relation to a revision of the code as they apply in relation to the code.

### *False information*

## 12 **False information in applications relating to absent voting**

Before section 13D of the 1983 Act (provision of false information) insert—

### **“13CA Scottish local government elections: false information in connection with applications for absent voting**

- (1) A person who provides false information in connection with an application mentioned in subsection (2) below commits an offence.
- (2) The application referred to in subsection (1) above is an application—
- (a) relating to a local government election in Scotland; and
  - (b) to which any of the following provisions of Schedule 4 to the Representation of the People Act 2000 (c. 2) applies, namely—
    - (i) paragraph 3(1) or (2);
    - (ii) paragraph 4(1) or (2);
    - (iii) paragraph 7(4).
- (3) In relation to a signature, “false information” for the purposes of subsection (1) above means a signature which—
- (a) is not the usual signature of; or
  - (b) was written by a person other than,
- the person whose signature it purports to be.
- (4) A person does not commit an offence under subsection (1) above if the person did not know, and had no reason to suspect, that the information was false.
- (5) Where sufficient evidence is adduced to raise an issue with respect to the defence under subsection (4) above, the court must assume that the defence is satisfied unless the prosecutor proves beyond reasonable doubt that it is not.
- (6) A person guilty of an offence under subsection (1) above is liable on summary conviction to (either or both)—
- (a) imprisonment for a term not exceeding 6 months;
  - (b) a fine not exceeding level 5 on the standard scale.”.



### **13 False information in nomination papers etc.**

After section 65A of the 1983 Act (false information in nomination papers etc. at elections other than Scottish local government elections) insert—

#### **“65B Scottish local government elections: false information in nomination papers etc.**

- (1) This section applies in relation to a local government election in Scotland.
- (2) A person is guilty of a corrupt practice if he causes or permits to be included in a document delivered or otherwise furnished to a returning officer for use in connection with the election—
  - (a) a statement of the name or home address of a candidate at the election which he knows to be false in any particular; or
  - (b) anything which purports to be the signature of an elector who proposes, seconds or assents to the nomination of such a candidate but which he knows—
    - (i) was not written by the elector by whom it purports to have been written; or
    - (ii) if written by that elector, was not written by him for the purpose of signifying that he was proposing, seconding or, as the case may be, assenting to that candidate’s nomination.
- (3) A person is guilty of a corrupt practice if he makes in any document in which he gives his consent to his nomination as a candidate at the election—
  - (a) a statement of his date of birth; or
  - (b) a statement as to his qualification for being elected at the election, which he knows to be false in any particular.
- (4) For the purposes of subsection (3) above, a statement as to a candidate’s qualification is a statement—
  - (a) that he is qualified for being elected;
  - (b) that he will be qualified for being elected; or
  - (c) that to the best of his knowledge and belief he is not disqualified for being elected.”.

#### *Offences relating to voting*

### **14 Undue influence**

- (1) Section 115 of the 1983 Act (offence of undue influence), so far as it applies to a local government election in Scotland, is amended as follows.
- (2) In subsection (2)(b)—
  - (a) after “prevents” insert “, or intends to impede or prevent,”, and
  - (b) after “prevails upon” insert “, or intends so to compel, induce or prevail upon,”.

## 15 Offences relating to applications for postal and proxy votes

Before section 63 of the 1983 Act (breach of official duty) insert—

### **“62B Scottish local government elections: offences relating to applications for postal and proxy votes**

- (1) This section applies in relation to a local government election in Scotland.
- (2) A person commits an offence if he—
  - (a) engages in any of the acts specified in subsection (3) below at the election; and
  - (b) intends, by doing so, to deprive another of an opportunity to vote or to make for himself or another a gain of a vote to which he or the other is not otherwise entitled or a gain of money or property.
- (3) The acts referred to in subsection (2)(a) above are—
  - (a) applying for a postal or proxy vote as some other person (whether that other person is living or dead or is a fictitious person);
  - (b) otherwise making a false statement in, or in connection with, an application for a postal or proxy vote;
  - (c) inducing the registration officer or returning officer to send a postal ballot paper or any communication relating to a postal or proxy vote to an address which has not been agreed to by the person entitled to the vote;
  - (d) causing a communication relating to a postal or proxy vote or containing a postal ballot paper not to be delivered to the intended recipient.
- (4) In subsection (2)(b) above, property includes any description of property.
- (5) In subsection (3) above a reference to a postal vote or a postal ballot paper includes a reference to a proxy postal vote or a proxy postal ballot paper (as the case may be).
- (6) A person who commits an offence under subsection (2) above or who aids, abets, counsels or procures the commission of such an offence is guilty of a corrupt practice.”.

### *Election expenses*

## 16 Prohibition of expenses not authorised by election agent

- (1) In section 75 of the 1983 Act (prohibition of expenses not authorised by election agent), at the end insert—
 

“(11) This section does not apply in relation to a local government election in Scotland.”.
- (2) After that section insert—

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### **“75A Scottish local government elections: prohibition of expenses not authorised by election agent**

- (1) This section applies in relation to a local government election in Scotland.
- (2) No person other than a candidate at the election, his election agent or a person authorised in writing by the election agent shall, with a view to promoting or procuring the election of the candidate, incur any expenses on account of—
  - (a) holding public meetings or organising any public display;
  - (b) issuing advertisements, circulars or publications; or
  - (c) otherwise presenting to the electors the candidate or his views or the extent or nature of his backing or disparaging another candidate.
- (3) Subsection (2)(c) above does not restrict the publication of any matter relating to the election in—
  - (a) a newspaper or other periodical;
  - (b) a broadcast made by the British Broadcasting Corporation; or
  - (c) a programme included in any service licensed under Part 1 or 3 of the Broadcasting Act 1990 (c. 42) or Part 1 or 2 of the Broadcasting Act 1996 (c. 55).
- (4) Subsection (2) does not apply to expenses incurred by any person—
  - (a) which do not exceed in the aggregate the permitted sum (and are not incurred by that person as part of a concerted plan of action); or
  - (b) in travelling or in living away from home or similar personal expenses.
- (5) For the purposes of subsection (4)(a) above—
  - (a) “the permitted sum” means, in respect of each candidate, £50 together with an additional 0.5p for every entry in the register of local government electors for the electoral area in question as it has effect on the last day for publication of notice of the election; and
  - (b) expenses are to be regarded as incurred by a person “as part of a concerted plan of action” if they are incurred by that person in pursuance of any plan or other arrangement whereby that person and one or more other persons are to incur, with a view to promoting or procuring the election of the same candidate, expenses which (disregarding subsection (4)(a)) fall within subsection (2) above.
- (6) Where a person incurs any expenses required by subsection (2) above to be authorised by the election agent, that person shall, within 21 days after the day on which the result of the election is declared, deliver to the appropriate officer—
  - (a) a return of the amount of the expenses, stating the election at which, and the candidate in whose support they were incurred;
  - (b) a declaration by that person (or in the case of an association or body of persons, by a director, general manager, secretary or other similar officer of the association or body) verifying the return and giving particulars of the matters for which the expenses were incurred; and
  - (c) the authority received from the election agent (which, for the purposes of this section, is to be treated as forming part of the return).

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- (7) A person is guilty of a corrupt practice if he—
- (a) incurs, or aids, abets, counsels or procures any other persons to incur, any expenses in contravention of subsection (2) above; or
  - (b) makes a declaration required by subsection (6)(b) above which he knows to be false.
- (8) A person is guilty of an illegal practice if he fails to deliver any return or declaration as required by subsection (6) above.
- (9) The court by or before which a person is convicted of a corrupt or illegal practice under subsection (7) or (8) above may, if the court thinks it just in the special circumstances of the case, mitigate or entirely remit any incapacity incurred under section 173 or 173A of this Act by virtue of the conviction.
- (10) A candidate is not liable for, and his election is not void by reason of, a corrupt or illegal practice under subsection (7) or (8) above committed by an agent without his consent or connivance.
- (11) Where any act or omission of an association or body of persons (whether corporate or unincorporate) is a corrupt or illegal practice under this section, any person who at the time of the act or omission was a director, general manager, secretary or other similar officer of the association or body, or was purporting to act in any such capacity, is also guilty of the corrupt or illegal practice, unless the person proves—
- (a) that the act or omission took place without his consent or connivance; and
  - (b) that he exercised all such diligence to prevent the commission of the offence as he ought to have exercised having regard to the nature of his functions in that capacity and to all the circumstances.”.
- (3) The amendments made by this section are to be taken to have had effect from 16th February 2001.

## 17 Meaning of election expenses for the purposes of the 1983 Act

- (1) The 1983 Act is amended as follows.
- (2) Sections 90A (meaning of election expenses) and 90B (incurring of election expenses for purposes of section 90A), so far as applying in relation to a local government election in Scotland, are repealed.
- (3) Before section 90C insert—

**“90ZB Scottish local government elections: meaning of “election expenses”**

- (1) This section applies in relation to a local government election in Scotland.
- (2) In this Part of this Act, “election expenses”, in relation to a candidate at such an election, means any expenses incurred at any time in respect of any matter specified in Part 1 of Schedule 4B which is used for the purposes of the candidate’s election.

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- (3) For the purposes of subsection (2) above, it is immaterial whether any such matter is so used before or after the date when the candidate becomes a candidate at the election.
  - (4) No election expenses are to be regarded as incurred by virtue of subsection (2) above or section 90C below in respect of any matter specified in Part 2 of Schedule 4B.
  - (5) In this section and in section 90C below, “for the purposes of the candidate’s election” means with a view to, or otherwise in connection with, promoting or procuring the candidate’s election at the election.
  - (6) For the purposes of this Part of this Act so far as applying to a local government election in Scotland, election expenses are incurred by or on behalf of a candidate at the election if they are incurred—
    - (a) by the candidate or his election agent; or
    - (b) by any person authorised by the candidate or his election agent to incur expenses.
  - (7) In this Part of this Act so far as applying to a local government election in Scotland, any reference to election expenses incurred by or on behalf of a candidate at the election includes expenses—
    - (a) which are incurred as mentioned in subsection (2) above before the date when he becomes a candidate at the election; but
    - (b) which by virtue of that subsection and subsection (3) above fall to be regarded as election expenses.
  - (8) In this Part and in Part 3 of this Act so far as applying to a local government election in Scotland, any reference (in whatever terms) to promoting or procuring a candidate’s election at an election includes doing so by prejudicing the electoral prospects of another candidate at the election.”.
- (4) Before Schedule 5 insert the Schedule set out in schedule 1 to this Act.

## **18 Financial limits applying to candidates' election expenses**

In section 132 of the Political Parties, Elections and Referendums Act 2000 (c. 41), subsection (6) (which restricts, in relation to local government elections in Scotland, modifications made by that section to section 76 of the 1983 Act relating to limitation of election expenses) is repealed.

## **19 Return as to election expenses**

- (1) In section 81 of the 1983 Act (returns as to election expenses), subsection (3), so far as applying in relation to a local government election, is repealed.
- (2) Before subsection (5) of that section, insert—

“(4A) In relation to a local government election in Scotland, the return shall also contain as respects that candidate—

  - (a) a statement relating to such expenses as the Scottish Ministers may by regulations prescribe, being expenses (other than election expenses) in connection with which provision is made by this Part;

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- (b) a statement relating to such claims as the Scottish Ministers may so prescribe, being claims (whether paid, unpaid or disputed) in connection with election expenses or expenses prescribed under paragraph (a);
- (c) a statement relating to such other matters as the Scottish Ministers may so prescribe.

(4B) No regulations shall be made by the Scottish Ministers under subsection (4A) above unless a draft of the instrument containing the regulations has been laid before and approved by a resolution of the Scottish Parliament.”.

*Anonymous entries*

**20 Anonymous registration: miscellaneous amendments**

The following provisions of the 1983 Act and the 2000 Act (which provide for certain provisions of those Acts relating to anonymous entries not to apply in relation to local government elections in Scotland) are repealed, namely—

- (a) in section 9B of the 1983 Act (anonymous registration), subsection (9),
- (b) in section 128 of the 1983 Act (presentation of petition questioning local election), subsection (1B),
- (c) in Schedule 4 to the 2000 Act (absent voting)—
  - (i) in paragraph 3, sub-paragraph (3A),
  - (ii) in paragraph 4, sub-paragraph (2B),
  - (iii) in paragraph 5, sub-paragraph (5), and
  - (iv) in paragraph 7, sub-paragraph (8B).

*Personal identifiers*

**21 Absent vote applications: provision of personal identifiers**

- (1) This section applies to an application under any of the paragraphs of Schedule 4 (absent voting in Great Britain) to the 2000 Act specified in subsection (2) if the application is made for the purposes only of local government elections in Scotland or a particular local government election in Scotland.
- (2) Those paragraphs are—
  - (a) paragraph 3(1) or (2) (applications to vote by post or proxy at elections for a definite or indefinite period),
  - (b) paragraph 4(1) or (2) (applications to vote by post or proxy at a particular election),
  - (c) paragraph 7(4) (applications to vote by post as proxy).
- (3) A person making such an application (“the applicant”) must include in the application the applicant’s signature and date of birth.
- (4) The registration officer must not grant any such application which does not include those details.

- (5) However, the registration officer may, in relation to any such application, dispense with the requirement under subsection (3) to include the applicant's signature if the officer is satisfied that the applicant is unable—
  - (a) to provide a signature because—
    - (i) of any disability the applicant has, or
    - (ii) the applicant is unable to read or write, or
  - (b) to sign in a consistent and distinctive way because of any such disability or inability.
- (6) The registration officer must keep a record in relation to persons granted applications to which this section applies showing—
  - (a) their dates of birth, and
  - (b) except in cases where the officer has, under subsection (5), dispensed with the requirement for a signature, their signatures.
- (7) The record kept under subsection (6) must be retained by the registration officer for such period as the Scottish Ministers may by regulations prescribe.

## **22 Provision of fresh signatures**

- (1) This section applies to a person—
  - (a) who is included in the record kept under paragraph 3(4) or 7(6) (record of persons granted applications to vote by post or proxy or by post as proxy for definite or indefinite period) of Schedule 4 to the 2000 Act, and
  - (b) whose signature is shown on the record kept under section 21(6).
- (2) Such a person may, at any time, provide the registration officer with a fresh signature.
- (3) The Scottish Ministers may by regulations make provision—
  - (a) enabling the registration officer, in such circumstances as may be prescribed in the regulations, to require any person to whom this section applies to provide a fresh signature,
  - (b) as to the consequences of such a person refusing or failing, in such circumstances as may be so prescribed, to comply with such a requirement.
- (4) Where a person provides a fresh signature by virtue of this section, the registration officer must amend the record kept under section 21(6) in relation to that person so as to replace the existing signature with the fresh signature.

## **23 Disclosure of personal identifiers**

- (1) The registration officer must either—
  - (a) provide the returning officer for a local government election in Scotland with a copy of any information contained in records kept by the officer under section 21(6) in relation to any electors at the election, or
  - (b) give the returning officer access to such information.
- (2) A registration officer may disclose information contained in records kept by the officer under section 21(6) to—
  - (a) any other registration officer if the officer disclosing it thinks that to do so will assist the other officer in the performance of the other officer's duties,

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- (b) any person exercising functions in relation to the preparation or conduct of legal proceedings under the Representation of the People Acts or any other enactment relating to the conduct of elections, or
- (c) such other persons, and for such purposes, as the Scottish Ministers may by regulations prescribe.

## **24 Power to require existing absent voters to provide personal identifiers**

- (1) The Scottish Ministers may by regulations make provision—
  - (a) enabling the registration officer, in such circumstances as may be prescribed in the regulations, to require an existing absent voter to provide the officer with the voter’s signature and date of birth,
  - (b) as to the consequences of such a voter refusing or failing, in such circumstances as may be so prescribed, to comply with such a requirement.
- (2) The references in subsection (1) to an existing absent voter are references to a person granted, before section 21 came into force, an application to which that section would have applied had it been in force at the time the application was made.
- (3) Subsection (6) of section 21 applies in relation to persons who have complied with a requirement imposed by virtue of subsection (1) of this section as it applies in relation to persons granted applications to which that section applies.

*Photographs on ballot papers: piloting*

## **25 Photographs on ballot papers: piloting**

In section 5(4) (pilot schemes for local elections) of the Scottish Local Government (Elections) Act 2002 ([asp 1](#)), after paragraph (a) insert—

- “(aa) for ballot papers issued at the elections to contain photographs of the candidates;”.

*Encouraging electoral participation*

## **26 Encouraging electoral participation**

- (1) A returning officer for a local government election may take such steps as the officer thinks appropriate to encourage the participation by electors in local government elections in the area for which the officer acts.
- (2) Such an officer must have regard to any guidance issued by the Scottish Ministers for the purposes of this section.
- (3) The Scottish Ministers may reimburse a returning officer in respect of any expenditure incurred by the officer for the purposes of this section.
- (4) The total amount paid under subsection (3) must not in any year exceed such amount as is determined in accordance with regulations made by the Scottish Ministers.



### *Miscellaneous*

#### **27 Tendered votes in certain circumstances**

(1) In section 61 of the 1983 Act (certain voting offences), before subsection (7) insert—

“(6B) A person is not guilty of an offence under subsection (2)(b) or (3)(b) above by reason only of having marked or tendered a ballot paper at a local government election in Scotland in pursuance of any provision—

- (a) made under section 3(1) of the Local Governance (Scotland) Act 2004 (asp 9) as to the conduct of elections of councillors; and
- (b) which entitles him to do so despite the fact that he is or may be entitled to vote by post at the election.”.

(2) In Schedule 4 to the 2000 Act (absent voting in Great Britain)—

(a) in paragraph 2 (manner of voting at parliamentary or local government elections), before sub-paragraph (7) insert—

“(6B) Sub-paragraph (2) above does not prevent a person, at the polling station allotted to him at a local government election in Scotland, marking a tendered ballot paper in pursuance of any provision—

- (a) made under section 3(1) of the Local Governance (Scotland) Act 2004 (asp 9) as to the conduct of elections of councillors, and
- (b) which entitles him to do so despite the fact that he is or may be entitled to an absent vote at the election.”.

(b) in paragraph 7 (voting as proxy), at end insert—

“(14) Sub-paragraph (2) above does not prevent a person entitled to vote as proxy for another, at the polling station allotted to him at a local government election in Scotland, marking a tendered ballot paper in pursuance of any provision—

- (a) made under section 3(1) of the Local Governance (Scotland) Act 2004 (asp 9) as to the conduct of elections of councillors, and
- (b) which entitles him to do so despite the fact that he is or may be entitled to vote by post as proxy.”.

#### **28 Election campaigns and proceedings: miscellaneous amendments**

(1) In section 81 of the 1983 Act (return as to election expenses), after subsection (10A) insert—

“(10B) In the application of subsection (10A) in relation to a local government election in Scotland, the reference to the Electoral Commission is to be read as if it were a reference to the Scottish Ministers.”.

(2) In section 138(2) of the Political Parties, Elections and Referendums Act 2000 (c. 41) (which restricts, in relation to local government elections in Scotland, the effect of amendments to the 1983 Act made by Schedule 18 (election campaigns and proceedings) of that Act), for “Schedule 18 (other than paragraphs 8 and 15(a))” substitute “paragraphs 7(4), 9, 14, 17, 18 (other than sub-paragraph (1)(b)) and 19(7) of Schedule 18”.

- (3) In section 158(3)(a) of that Act (which restricts, in relation to local government elections in Scotland, the effect of repeals relating to the 1983 Act) for “section 82(4)” substitute “those relating to sections 72, 73, 79, 81, 82, 101 to 105, and 108 and Schedule 3”.

## **29 Details to appear on election publications**

- (1) Section 110 of the 1983 Act (printer’s name and address on election publications), so far as applying in relation to a local government election in Scotland, is repealed.
- (2) Before section 111 of the 1983 Act insert—

### **“110A Scottish local government elections: details to appear on election publications**

- (1) This section applies to any material which can reasonably be regarded as intended to promote or procure the election of a candidate at a local government election in Scotland (whether or not it can be so regarded as intended to achieve any other purpose as well).
- (2) No material to which this section applies is to be published unless—
- (a) in the case of material which is, or is contained in, such a document as is mentioned in subsection (4), (5) or (6) below, the requirements of that subsection are complied with; or
  - (b) in the case of any other material, any requirements falling to be complied with in relation to the material by virtue of regulations under subsection (7) below are complied with.
- (3) For the purposes of subsections (4) to (6) below the following details are “the relevant details” in the case of any material falling within subsection (2)(a) above, namely—
- (a) the name and address of the printer of the document;
  - (b) the name and address of the promoter of the material; and
  - (c) the name and address of any person on whose behalf the material is being published (and who is not the promoter).
- (4) Where the material is a document consisting (or consisting principally) of a single side of printed matter, the relevant details must appear on the face of the document.
- (5) Where the material is a printed document other than one to which subsection (4) above applies, the relevant details must appear on either the first or the last page of the document.
- (6) Where the material is an advertisement contained in a newspaper or periodical—
- (a) the name and address of the printer of the newspaper or periodical must appear on either its first or last page; and
  - (b) the relevant details specified in subsection (3)(b) and (c) above must be included in the advertisement.

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- (7) The Scottish Ministers may by regulations make provision for and in connection with the imposition of requirements as to the inclusion in material falling within subsection (2)(b) above of the following details, namely—
- (a) the name and address of the promoter of the material; and
  - (b) the name and address of any person on whose behalf the material is being published (and who is not the promoter).
- (8) Regulations under subsection (7) above may, in particular, specify—
- (a) the manner and form in which such details are to be included in any such material for the purpose of complying with any such requirement;
  - (b) circumstances in which—
    - (i) any such requirement does not have to be complied with by a person of any description specified in the regulations; or
    - (ii) a breach of any such requirement by a person of any description so specified is not to result in the commission of an offence under this section by that person or by a person of any other such description;
  - (c) circumstances in which material is, or is not, to be taken for the purposes of the regulations to be published or (as the case may be) published by a person of any description so specified.
- (9) Regulations under subsection (7) may contain such incidental, supplemental, saving or transitional provision as the Scottish Ministers think fit.
- (10) A statutory instrument containing regulations under subsection (7) above is subject to annulment in pursuance of a resolution of the Scottish Parliament.
- (11) Where any material falling within subsection (2)(a) above is published in contravention of subsection (2), then (subject to subsections (13) and (14) below)—
- (a) the promoter of the material;
  - (b) any other person by whom the material is so published; and
  - (c) the printer of the document,
- shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 5 on the standard scale.
- (12) Where any material falling within subsection (2)(b) above is published in contravention of subsection (2), then (subject to regulations made by virtue of subsection (8)(b) above and to subsections (13) and (14) below)—
- (a) the promoter of the material; and
  - (b) any other person by whom the material is so published,
- shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 5 on the standard scale.
- (13) It shall be a defence for a person charged with an offence under this section to prove—
- (a) that the contravention of subsection (2) above arose from circumstances beyond his control; and
  - (b) that he took all reasonable steps, and exercised all due diligence, to ensure that that contravention would not arise.

- (14) Where a candidate or his election agent would (apart from this subsection) be guilty of an offence under subsection (11) or (12) above, he shall instead be guilty of an illegal practice.
- (15) In this section—  
“print” means print by whatever means, and “printer” shall be construed accordingly;  
“the promoter”, in relation to any material to which this section applies, means the person causing the material to be published;  
“publish” means make available to the public at large, or any section of the public, in whatever form and by whatever means.
- (16) For the purpose of determining whether any material is material such as is mentioned in subsection (1) above, it is immaterial that it does not expressly mention the name of any candidate.”.

### **30 Repeal of reference to Maundy Thursday**

- (1) The 1983 Act is amended as follows.
- (2) In section 119(2) (computation of time for purposes of Part 2), the words “Maundy Thursday” are repealed.
- (3) The amendment made by subsection (2) extends to section 119(2) only so far as it applies for the purposes of a local government election in Scotland.

### **31 Translations etc. of certain documents**

In the 1983 Act, before section 200 insert—

**“199C Scottish local government elections: translations etc. of certain documents**

- (1) Subsections (2) and (3) below apply to any document which, under or by virtue of this Act, is required or authorised to be given to voters or displayed in any place for the purposes of a local government election in Scotland.
- (2) The person who is required or authorised to give or display the document must, as he thinks appropriate, also give or display or otherwise make available in such form as he thinks appropriate—
- (a) the document in Braille;
  - (b) the document in languages other than English;
  - (c) graphical representations of the information contained in the document;
  - (d) other means of making the information contained in the document accessible to persons who might not otherwise have reasonable access to the information.
- (3) The person required or authorised to give or display the document must also, as he thinks appropriate, make available the information contained in the document in such audible form as he thinks appropriate.
- (4) Subsections (2) and (3) above do not apply to—

- (a) the nomination paper; or
- (b) the ballot paper.”.

### **32 Certain voters entitled to vote in person**

In paragraph 2 of Schedule 4 to the 2000 Act (absent voting in Great Britain)—

- (a) before sub-paragraph (6) insert—

“(5B) In relation to a local government election in Scotland, nothing in the preceding provisions of this paragraph applies to a person to whom section 7 of the 1983 Act (mental patients who are not detained offenders) applies and who is liable, by virtue of any enactment, to be detained in the mental hospital in question, whether he is registered by virtue of that provision or not; and such a person may vote—

- (a) in person (where he is granted permission to be absent from the hospital and voting in person does not breach any condition attached to that permission), or
  - (b) by post or by proxy (where he is entitled as an elector to vote by post or, as the case may be, by proxy at the election).”,
- (b) in sub-paragraph (6), paragraph (a) and the “or” following it, so far as applying in relation to a local government election in Scotland, are repealed.

### **33 Power to make regulations as to preparation of special lists and records etc.**

The Scottish Ministers may by regulations make provision with respect to—

- (a) the procedure to be followed in the preparation of any special lists or records required by the 1983 Act in connection with a local government election, and
- (b) the time, place and manner of publication of such special lists or records.

### **34 Miscellaneous amendments**

- (1) The following provisions of the 1983 Act, so far as they apply in relation to a local government election in Scotland, are amended as follows—
  - (a) in section 65 (tampering with nomination papers, ballot papers etc.), in subsection (1)(b), after “or any” insert “postal voting statement or”,
  - (b) in section 66 (requirement of secrecy), in each of the following provisions, after “number” insert “or other unique identifying mark”—
    - (i) subsection (2)(a),
    - (ii) subsection (3)(c),
    - (iii) subsection (4)(b) and (c), and
    - (iv) subsection (5).
- (2) In section 160 of the 1983 Act (persons reported personally guilty of corrupt or illegal practices), the following provisions are repealed—
  - (a) in subsection (5A), the words “to subsection (5B) below and”, and
  - (b) subsection (5B).
- (3) In section 173A of the 1983 Act (incapacity to hold public or judicial office in Scotland), the following provisions are repealed—

- (a) in subsection (1), the words “to subsection (3) and”, and
  - (b) subsection (3).
- (4) In Schedule 2 (provisions which may be contained in regulations as to registration etc.) to the 1983 Act, after paragraph 12 insert—
- “12A Regulations under section 53 making provision as mentioned in paragraph 12 in relation to a local government election in Scotland may also make provision authorising the cancellation or removal of ballot papers at such an election in any prescribed circumstances;”.
- (5) In paragraph 3(3)(b) of Schedule 4 to the 2000 Act (eligibility to vote by proxy at parliamentary or local government elections), the words “or, in the case of local government elections in Scotland, by reason of blindness or other physical incapacity” are repealed.
- (6) In section 3 of the Local Governance (Scotland) Act 2004 (asp 9), after subsection (2) insert—
- “(2A) For the avoidance of doubt, not every order made under subsection (1) need include provision of the type mentioned in subsection (2).”.

*General***35 Part 1: minor and consequential modifications**

Schedule 2, which makes minor and consequential modifications, has effect.

**36 Interpretation of Part 1**

- (1) In this Part—
- “the 1983 Act” means the Representation of the People Act 1983 (c. 2),
  - “the 2000 Act” means the Representation of the People Act 2000 (c. 2).
- (2) Any word or expression used in this Part which is also used in the 1983 Act has the same meaning for the purposes of this Part as it has for the purposes of that Act.
- (3) Subsection (2)—
- (a) does not apply to any reference to “enactment”, and
  - (b) is subject to section 7(9).

**PART 2**

## REGISTRATION SERVICES

*Reorganisation of local registration services***37 Registration districts and authorities**

- (1) The 1965 Act is amended in accordance with subsections (2) to (6).
- (2) For section 5 (registration districts and authorities) there is substituted—

### **“5 Registration districts and local registration authorities**

- (1) For the purposes of this Act, the area of each local authority shall be a registration district.
  - (2) There shall be a local registration authority for each registration district.
  - (3) The local registration authority for a registration district shall be the local authority whose area comprises that district.”.
- (3) Section 6 (alteration of registration districts) is repealed.
- (4) In section 7 (senior and district registrars and other staff)—
- (a) in subsection (1), for “each registration district in their area” there is substituted “their registration district”;
  - (b) in subsection (1)(a), for “any registration district in their area” there is substituted “their registration district”;
  - (c) in subsection (1)(c), for “any registration district in their area” there is substituted “their registration district”;
  - (d) in subsection (8), for “any”, where first occurring, there is substituted “their”; and
  - (e) in subsection (11)(a), the words “or in a scheme under the last foregoing section” and “or of any such scheme” are repealed.
- (5) In section 8 (registration offices)—
- (a) in subsection (1), for “each registration district in their area” there is substituted “their registration district”; and
  - (b) in subsection (4)—
    - (i) for “each registration district in their area” there is substituted “their registration district”;
    - (ii) for “the office” there is substituted “those premises”; and
    - (iii) for “the last foregoing subsection” there is substituted “subsection (3) above”.
- (6) In section 9(1) (provision of area repositories), for “area” there is substituted “registration district”.

### **38 Registration offices: opening times**

In section 8 of the 1965 Act (attendance of district registrar at registration office), after subsection (3) there is inserted—

“(3A) Different days and different hours may be fixed under subsection (3) above for each of the premises provided and maintained by the local registration authority as part of the registration office.”.

### *Registration of births and deaths*

### **39 Registration of births**

- (1) The 1965 Act is amended in accordance with subsections (2) to (8).

- (2) In section 13 (particulars of births to be registered), for subsections (1) to (3) there is substituted—
- “(1) The prescribed particulars of the birth of every child born in Scotland shall be registered in accordance with this Part of this Act and for that purpose each district registrar for each registration district shall keep—
- (a) a register of births, and
  - (b) a register of still-births.”.

(3) In section 14 (duty to give information of particulars of birth)—

    - (a) in subsection (1)—
      - (i) for the words from “attend” to “registrar”, where secondly occurring, there is substituted “give to the district registrar for a registration district information of the prescribed particulars concerning the birth”; and
      - (ii) in the proviso, the words “and the signing of the register” are repealed;
    - (b) after subsection (1) there is inserted—

“(1A) For the purposes of subsection (1) above, a person shall give information of the prescribed particulars concerning a birth to the district registrar for a registration district by—

      - (a) attending personally at the registration office for that district and—
        - (i) giving to the registrar information of the particulars required to be registered concerning the birth, and
        - (ii) attesting, in the prescribed manner, the prescribed form (in this Part, the “birth registration form”) concerning the birth in the presence of the registrar, or
      - (b) submitting to the registrar by a prescribed means a birth registration form concerning the birth which has been completed by the person and attested by him in the prescribed manner.”; and
    - (c) in subsection (3), the words “or the last foregoing” are repealed.

(4) In section 15 (duty to give information concerning finding of infant children)—

    - (a) in subsection (1)—
      - (i) for “registrar”, where first occurring, there is substituted “district registrar for the registration district in which the child was found”;
      - (ii) for the words “particulars required to be registered” there is substituted “prescribed particulars”; and
      - (iii) for “sign the register” there is substituted “attest, in the prescribed manner, the birth registration form concerning the birth”; and
    - (b) in subsection (2)—
      - (i) for “signed” there is substituted “attested in the prescribed manner”; and
      - (ii) for “register” there is substituted “birth registration form concerning the birth”.

(5) In section 16 (registrar’s power to require information concerning birth to be given)—

    - (a) in subsection (1)—



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- (i) for “particulars required to be registered” there is substituted “prescribed particulars”;
  - (ii) for “registrar”, where first occurring, there is substituted “district registrar for a registration district”;
  - (iii) after “the”, where sixthly occurring, there is inserted “district”; and
  - (iv) in paragraph (c), for “sign the register” there is substituted “attest, in the prescribed manner, the birth registration form concerning the birth”;
- (b) in subsection (2), after “the”, where fourthly occurring, there is inserted “said”; and
  - (c) in subsection (3), after “the”, where first occurring, there is inserted “said”.
- (6) After section 16 there is inserted—

#### **“16A Provision of birth particulars to Registrar General**

- (1) Each Health Board shall in respect of each birth that occurs in its area, provide to the Registrar General, in such manner and at such times as the Registrar General and that body may agree, the prescribed particulars.
- (2) The Registrar General shall, as soon as reasonably practicable after the prescribed particulars of a birth have been provided to the Registrar General under subsection (1) above, make those particulars available to the district registrar for each registration district.

#### **16B Registration of births**

- (1) Subject to subsection (2) below, the district registrar for a registration district shall register the particulars of a birth where, in accordance with this Part of this Act, the registrar has an attested birth registration form concerning the birth.
  - (2) The registrar is not to register a birth in respect of which he obtained the attested birth registration by virtue of section 14(1A)(b) of this Act until the registrar is satisfied that the prescribed particulars of the birth have been—
    - (a) provided to the Registrar General under section 16A of this Act; or
    - (b) provided to the relevant district registrar under section 50 of this Act.
  - (3) For the purposes of this Part of this Act, particulars of a birth are registered by entering the birth registration form concerning the birth in the relevant register kept by the district registrar performing the registration.
  - (4) In subsection (3) above, the “relevant register” means the register of births or, as the case may be, still-births.”.
- (7) In section 17 (prohibition on late registration of births)—
- (a) in subsection (1), for “a registrar” there is substituted “the district registrar for a registration district”; and
  - (b) after that subsection there is inserted—

“(1A) For the purposes of subsection (1) above, authority which is given by electronic means is to be treated as if in writing if it is received

in a form which is legible and capable of being used for subsequent reference.”.

- (8) In section 18 (births of children to unmarried parents)—
- (a) in subsection (1)—
    - (i) for “registrar” there is substituted “district registrar for the registration district”;
    - (ii) for “register” there is substituted “birth registration form concerning the birth”; and
    - (iii) in paragraph (a), for “sign the register” there is substituted “attest, in the prescribed manner, the birth registration form”;
  - (b) in subsection (1A)—
    - (i) for “registrar”, where first occurring, there is substituted “district registrar for the registration district”; and
    - (ii) for “signing of the register” there is substituted “attesting of the birth registration form concerning the birth”; and
  - (c) in subsection (2), for “register” there is substituted “birth registration form concerning the birth”.

#### **40 Registration of still-births**

- (1) Section 21 of the 1965 Act (registration of still-births) is amended in accordance with subsections (2) to (4).
- (2) In subsection (2)—
- (a) for “registrar” there is substituted “district registrar for a registration district”; and
  - (b) in paragraph (a)—
    - (i) for “deliver” there is substituted “produce”; and
    - (ii) for “signed”, in both places where it occurs, there is substituted “attested in the prescribed manner”.
- (3) In subsection (3)—
- (a) the words from “give” to the end become paragraph (a); and
  - (b) after that paragraph there is inserted “; or
    - (b) deliver such a certificate on that person’s behalf to a district registrar for a registration district nominated by that person”.
- (4) In subsection (4)—
- (a) for “registrar” there is substituted “district registrar for a registration district”; and
  - (b) after “registered” there is inserted “or, if the person so requests, deliver such a certificate on that person’s behalf to a keeper or other person having charge of a place of interment nominated by that person”.

#### **41 Re-registration of births**

- (1) The 1965 Act is amended in accordance with subsections (2) and (3).
- (2) In section 20 (re-registration of birth)—
- (a) in subsection (1)—

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- (i) in paragraph (c), after “another”, where secondly occurring, there is inserted “and subject to subsection (1B) below”;
- (ii) for the words from “Registrar”, where first occurring, to “birth”, where first occurring, there is substituted “birth may, where subsection (1A) below applies, be re-registered”;
- (iii) for the words from “Provided” to “birth”, where secondly occurring, there is substituted—

“(1A) This subsection applies—

- (a) where the Registrar General authorises the re-registration, and
- (b) in such other cases or classes of case as may be prescribed.

(1B) A birth may not be re-registered”; and

- (iv) for “this subsection” there is substituted “subsection (1) above”; and

(b) subsection (3) is repealed.

(3) In section 54 (parliamentary procedure), in subsection (2)—

- (a) the words “prescribing fees for the purposes of this Act” become paragraph (a) of that subsection; and
- (b) after “Act” there is inserted—

“(b) prescribing cases or classes of case for the purpose of section 20(1A)(b) of this Act.”.

## **42 Registration of deaths**

(1) The 1965 Act is amended in accordance with subsections (2) to (8).

(2) In section 22 (particulars of deaths to be registered), for subsections (1) to (3) there is substituted—

“(1) The prescribed particulars of the death of every person dying in Scotland shall be registered in accordance with this Part of this Act and for that purpose the district registrar for each registration district shall keep a register of deaths.”.

(3) In section 23 (duty to give information of particulars of death)—

(a) in subsection (1)—

- (i) the words “to attend personally at a registration office and give to the registrar” are repealed;
- (ii) after “finding,” there is inserted “give”;
- (iii) for “and to sign the register in the presence of the registrar” there is substituted “to the district registrar for a registration district”; and
- (iv) in the proviso, the words “and the signing of the register” are repealed;

(b) after subsection (1) there is inserted—

“(1A) For the purposes of subsection (1), a person shall give information of the prescribed particulars concerning a death to the district registrar for a registration district by—

- (a) attending personally at the registration office for that district and—

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

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- (i) giving to the registrar information of the particulars required to be registered concerning the death, and
    - (ii) attesting, in the prescribed manner, the prescribed form (in this Part, the “death registration form”) concerning the death in the presence of the registrar, or
  - (b) submitting to the registrar by a prescribed means a death registration form concerning the death which has been completed by the person and attested by him in the prescribed manner.”; and
  - (c) in subsection (2), the words “or the last foregoing” are repealed.
- (4) In section 24 (certificate of cause of death)—
  - (a) in subsection (1)—
    - (i) for “registrar” there is substituted “district registrar for a registration district”; and
    - (ii) for “signed” there is substituted “attested, in the prescribed manner,”; and
  - (b) in subsection (2)—
    - (i) for “signed” there is substituted “attested, in the prescribed manner,”; and
    - (ii) for “registrar” there is substituted “district registrar for a registration district”.
- (5) In section 25 (registrar’s power to require information concerning death to be given)—
  - (a) in subsection (1)—
    - (i) for “particulars required to be registered” there is substituted “prescribed particulars”;
    - (ii) for “registrar”, where first occurring, there is substituted “district registrar for a registration district”;
    - (iii) after “the”, where ninthly occurring, there is inserted “district”; and
    - (iv) in paragraph (c), for “sign the register” there is substituted “attest, in the prescribed manner, the death registration form concerning the death”;
  - (b) in subsection (2), after “the”, where fourthly occurring, there is inserted “said”; and
  - (c) in subsection (3), after “the”, where first occurring, there is inserted “said”.
- (6) After section 25 there is inserted—

**“25A Provision of death particulars to Registrar General**

- (1) Each Health Board shall in respect of each death that occurs in its area, provide to the Registrar General, in such manner and at such times as the Registrar General and that body may agree, the prescribed particulars.
- (2) The Registrar General shall, as soon as reasonably practicable after the prescribed particulars of a death have been provided to the Registrar General under subsection (1) above, make those particulars available to the district registrar for each registration district.

## **25B Registration of deaths**

- (1) Subject to subsection (2) below, the district registrar for a registration district shall register the particulars of a death where, in accordance with this Part of this Act, the registrar has an attested death registration form concerning the death.
  - (2) The registrar is not to register a death in respect of which he obtained the attested death registration form by virtue of section 23(1A)(b) of this Act unless the registrar is satisfied that the prescribed particulars of the death have been—
    - (a) provided to the Registrar General under section 25A of this Act, or
    - (b) provided to the relevant district registrar under section 50 of this Act.
  - (3) For the purposes of this Part of this Act, particulars of a death are registered by entering the death registration form concerning the death in the register of deaths kept by the district registrar performing the registration.”.
- (7) In section 26 (prohibition on late registration of deaths)—
- (a) in subsection (1), for “a registrar” there is substituted “the district registrar for a registration district”; and
  - (b) after that subsection there is inserted—

“(1A) For the purposes of subsection (1) above, authority which is given by electronic means is to be treated as if in writing if it is received in a form which is legible and capable of being used for subsequent reference.”.
- (8) In section 27 (free certificate of registration of death)—
- (a) in subsection (1), for “registrar” there is substituted “district registrar for a registration district”; and
  - (b) in subsection (3), for “registrar of the registration district in which the death occurred” there is substituted “district registrar for a registration district”.

### *Registration information*

## **43 Registers kept by district registrars**

- (1) The 1965 Act is amended in accordance with subsections (2) to (6).
- (2) In section 32 (form and provision of registers etc.)—
  - (a) after subsection (1) there is inserted—

“(1A) A register of births, deaths, still-births or marriages or the Register of Corrections Etc. may, if the Registrar General so determines, be electronic rather than paper-based.”; and
  - (b) in subsection (2), for “the foregoing subsection” there is substituted “subsection (1) above”.
- (3) For section 34 (examination of registers by district examiners) there is substituted—

**“34 Examination and transmission of registers**

- (1) The district examiner, or such other officer as may be nominated for the purpose by the Registrar General, shall, at such time or times and in such manner as the Registrar General may direct, examine the unexamined part of a relevant register kept or held by a district registrar within the district examiner’s district.
- (2) An examination under subsection (1) above shall include an examination of any entry in the Register of Corrections Etc. which relates to an entry in a part of a relevant register which is the subject of the examination.
- (3) On completion of an examination under subsection (1) above—
  - (a) the district registrar shall endorse the register so examined, and
  - (b) the district examiner shall—
    - (i) endorse that register, and
    - (ii) transmit to the Registrar General a report of any circumstances arising from the examination to which he considers that the attention of the Registrar General should be drawn.
- (4) The district registrar for a registration district shall, at such time or times as the Registrar General may direct, transmit a relevant register to the Registrar General.
- (5) In this section—
 

“the unexamined part” of a register is that part of the register which has not previously been examined under subsection (1) above, and

“the relevant registers” are—

  - (a) the registers of births, still-births, deaths and marriages, and
  - (b) any duplicate or copy registers kept in pursuance of directions given by the Registrar General under section 33 of this Act.”.
- (4) Section 35 (reproduction of registers following transmission) is repealed.
- (5) In section 36 (replacement of lost registers etc.), in subsection (1), the words “or before reproduction in accordance with section 35 of this Act” are repealed.
- (6) In section 42 (power of district examiner to correct registers), in subsection (4)—
  - (a) after “entries” there is inserted “in a register”; and
  - (b) the words “of the registers” are repealed.

**44 Indexing of registers and provision of registration information**

- (1) The 1965 Act is amended in accordance with subsections (2) to (8).
- (2) Section 19 (free abbreviated certificate) is repealed.
- (3) For section 37 (search of indexes kept by registrars), there is substituted—

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### **“37 Issuing of extracts of entries in current registers**

- (1) Subject to subsection (2) below, where a person pays such fee as may be prescribed, the district registrar for a registration district shall, if the part of the registration office concerned is open for the purpose, issue to the person an extract of an entry in the register of births, still-births, deaths or marriages kept by the registrar.
- (2) An extract from the register of still-births may be issued only with the consent of the Registrar General in the particular case.”.
- (4) In section 38(1) (search of indexes kept by Registrar General), for “kept in the General Register Office” there is substituted “keep”.
- (5) For sections 39 (production of extracts by photography etc.) and 40 (abbreviated certificates of birth) there are substituted the following sections—

### **“39A Notice of registration events to third parties**

- (1) Where—
  - (a) the Registrar General receives an application for notice to be given to a person specified in the application of—
    - (i) a birth (other than a still-birth),
    - (ii) a death,
    - (iii) a marriage,
    - (iv) a change of name or surname or an alternative name,
  - (b) the application is in the prescribed form,
  - (c) such fee as may be prescribed has been paid, and
  - (d) subsection (2) below applies,the Registrar General shall, if the Registrar General considers it appropriate to do so, give such notice to such person.
- (2) This subsection applies—
  - (a) in the case of a birth, if—
    - (i) the birth has been registered in accordance with section 16B of this Act, and
    - (ii) the application is made by a qualified informant in relation to the birth,
  - (b) in the case of a death, if—
    - (i) the death has been registered in accordance with section 25B of this Act, and
    - (ii) the application is made by a qualified informant in relation to the death,
  - (c) in the case of a marriage, if—
    - (i) the marriage has been registered in accordance with section 15 or 19 of the Marriage (Scotland) Act 1977, and
    - (ii) the application is made by a party to the marriage, and
  - (d) in the case of a change of name or surname or an alternative name, if—

- (i) the change or alternative has been recorded in pursuance of section 43 of this Act, and
  - (ii) the application is made by a relevant person.
- (3) In subsection (2)(d)(ii) above, “relevant person” means—
- (a) in the case of a change of name or surname recorded in pursuance of section 43(3) of this Act, the qualified applicant,
  - (b) in any other case, the person upon whose application the recording in pursuance of section 43 of this Act proceeded.
- (4) An application for the giving of notice under subsection (1) above may be made to—
- (a) the Registrar General, or
  - (b) the district registrar for any registration district.
- (5) If such an application is made to a district registrar, the district registrar shall as soon as practicable submit the application to the Registrar General.
- (6) For the purpose of subsection (1) above notice shall be given—
- (a) in such form as may be prescribed, and
  - (b) by such means as the Registrar General may determine.

### **39B Application by third party for notification of death**

- (1) Where—
- (a) an application is made to the Registrar General for notice to be given of a death in Scotland to the applicant,
  - (b) the application is in the prescribed form,
  - (c) such fee as may be prescribed has been paid, and
  - (d) the death has been registered in accordance with section 25B of this Act,
- the Registrar General shall, if the Registrar General considers it appropriate to do so, give such notice to such person.
- (2) For the purpose of subsection (1) above notice shall be given—
- (a) in such form as may be prescribed, and
  - (b) by such means as the Registrar General may determine.

### **39C Provision of information to district registrars**

- (1) The Registrar General shall make arrangements for the district registrar for each registration district to have access to—
- (a) a copy of such of the entries in—
    - (i) the registers of births, deaths and marriages transmitted to the Registrar General under section 34(3) of this Act, or any enactment repealed by this Act, by any district registrar,
    - (ii) the Register of Divorces, and
    - (iii) the parochial registers in the custody of the Registrar General, as the Registrar General may determine,
  - (b) an alphabetical index of those entries, and



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- (c) a copy of any entry in the Register of Corrections Etc. which relates to an entry referred to in that index.
- (2) For the purposes of subsection (1) above—
- (a) a copy may be made by such means as the Registrar General shall determine, and
  - (b) different arrangements and determinations may be made in respect of different registration districts.

### **39D Searching of indexes and issuing of extracts by district registrars**

- (1) Where a person pays such fee as may be prescribed, the district registrar for a registration district shall, if the part of the registration office concerned is open for the purpose—
- (a) search the index to which the registrar has access by virtue of section 39C(1)(b) of this Act (or permit the person to do so), and
  - (b) issue to the person an extract of a copy of an entry to which the registrar has access by virtue of section 39C(1)(a) of this Act.
- (2) Section 44(3) of this Act shall apply to the issue under this section of an extract of a copy of an entry as it applies to the issue of an extract of an entry.

### **39E Abbreviated extracts**

- (1) Where the district registrar for a registration district registers the particulars of a birth or death, that person shall without charge—
- (a) immediately after so doing, give to the informant, or
  - (b) before the expiry of two working days beginning with the date of registration, send to the informant by post,
- an abbreviated extract of the entry in the register of births or, as the case may be, deaths.
- (2) Subsection (1) above shall not apply to—
- (a) re-registration of a birth under section 20 of this Act, or
  - (b) registration of a still-birth under section 21 of this Act.
- (3) Subject to subsection (5) below, where a person pays such fee as may be prescribed—
- (a) the district registrar for a registration district shall issue to the person an abbreviated extract of—
    - (i) an entry in a register of births or deaths kept by the registrar;  
or
    - (ii) a copy of an entry in a register of births or deaths to which the registrar has access by virtue of section 39C of this Act,
  - (b) the Registrar General shall issue to the person an abbreviated extract of an entry in a register of births or deaths kept by the Registrar General.
- (4) An abbreviated extract shall contain such particulars as may be prescribed.

- (5) An abbreviated extract based on information contained in the Adopted Children Register maintained under section 45(1) of the Adoption Act 1978 (c. 28)—
- (a) shall not include any reference to adoption, and
  - (b) may be obtained only from the Registrar General.”.
- (6) For section 41 (authentication and admissibility of extracts), there are substituted the following sections—

**“41 Form and authentication of registration information**

- (1) The documents mentioned in subsection (2) below shall be—
  - (a) in such form as may be prescribed, and
  - (b) authenticated in such manner as may be prescribed.
- (2) Those documents are—
  - (a) extracts issued under this Act, and
  - (b) notices given under section 39A or 39B of this Act.

**41A Admissibility of registration information as evidence**

- (1) A document mentioned in subsection (2) below shall be sufficient evidence of the birth, still-birth, death, marriage, civil partnership, divorce, dissolution of civil partnership, change of name or surname, alternative name or declarator of nullity of marriage to which, as the case may be, it relates.
- (2) Those documents are—
  - (a) an extract issued under this Act,
  - (b) a notice given under section 39A or 39B of this Act.”.
- (7) In section 44 (extracts etc. to take account of corrections), the following are repealed—
  - (a) in subsection (3), the words “and in issuing an abbreviated certificate in respect of such entry”; and
  - (b) in subsection (4), the words “or in any abbreviated certificate of birth”.
- (8) In section 53 (offences), in subsection (3)(e), the words “or certificate” are repealed.

**45 Correction of errors in registers**

- (1) The 1965 Act is amended in accordance with subsections (2) and (3).
- (2) In section 42 (correction of errors in registers), for subsections (2) and (3) there is substituted—
  - “(2) Subject to subsection (3A) below, the district registrar for a registration district may correct a relevant error in an entry in a register of births, still-births, deaths or marriages kept or held by him.
  - (3) In subsection (2) above, “relevant error” means—
    - (a) in respect of an entry relating to a birth or death—
      - (i) a clerical error arising from the faulty transcription of particulars provided by a qualified informant, or

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- (ii) an error of such other description as may be prescribed, and
  - (b) in respect of an entry relating to a marriage—
    - (i) a clerical error arising from the faulty transcription of particulars from a Marriage Schedule, or
    - (ii) an error of such other description as may be prescribed.
- (3A) Subsection (2) above does not apply if the entry is in a part which has been examined under section 34 of this Act.”.
- (3) Section 45 (correction of errors in parochial registers) is amended as follows—
- (a) the existing provision becomes subsection (1) of that section; and
  - (b) after that subsection there is inserted—
    - “(2) The reference in subsection (1) above to written evidence includes evidence which is submitted by electronic means if it is received in a form which is legible and capable of being used for subsequent reference.”.

#### **46 Recording change of name or surname**

In section 43 of the 1965 Act (recording of baptismal name or change of name or surname)—

- (a) in subsection (3)—
  - (i) the words from “upon” to “applicant” are repealed;
  - (ii) after “shall” there is inserted “, where, within two years from the date of the birth of the child, an application in the prescribed form is made to the Registrar General in respect of that matter by the qualified applicant,”; and
  - (iii) for “certificate”, where secondly occurring, there is substituted “application”; and
- (b) in each of subsections (4) and (5), the following are repealed—
  - (i) paragraph (a);
  - (ii) the word “and” where it occurs immediately after that paragraph; and
  - (iii) paragraph (b).

#### *Other amendments of the 1965 Act*

#### **47 Other amendments of the 1965 Act**

- (1) The 1965 Act is amended in accordance with subsections (2) and (3).
- (2) In section 53 (offences), in subsection (1)(a), after “registrar” there is inserted “or the Registrar General”.
- (3) After section 54 there is inserted—

#### **“54A Form, and manner of attestation, of documents**

- (1) Regulations prescribing the form of a document may, unless the document requires to be signed, make provision for the document to be electronic rather than paper-based.

- (2) Regulations prescribing the manner in which a document requires to be attested may make different provision for different cases or circumstances.”.

*Marriages and civil partnerships: procedure*

**48 Marriage procedure: marriages at sea**

- (1) The 1977 Act is amended in accordance with subsections (2) to (9).
- (2) In section 3 (submission of notice of intention to marry), after subsection (5) there is inserted—
- “(6) In this section, “the district registrar” means—
- (a) where the marriage is to be solemnised in a registration district, the district registrar for that district;
  - (b) where the marriage is to be solemnised in Scottish waters—
    - (i) in the case where the marriage is to be solemnised by an approved celebrant, the district registrar for any registration district;
    - (ii) in the case where the marriage is to be solemnised by an authorised registrar, the district registrar for the registration district of the proposed authorised registrar.”.
- (3) In section 4 (marriage notice book and list of intended marriages), after subsection (4) (as inserted by section 49(b)) there is inserted—
- “(5) In this section and sections 5 and 6 of this Act, “the district registrar” means—
- (a) where the marriage is to be solemnised in a registration district, the district registrar for that district;
  - (b) where the marriage is to be solemnised in Scottish waters—
    - (i) in the case where the marriage is to be solemnised by an approved celebrant, the district registrar to whom the marriage notices or approved certificates in respect of the marriage were submitted;
    - (ii) in the case where the marriage is to be solemnised by an authorised registrar, the district registrar for the registration district of the proposed authorised registrar.”.
- (4) In section 6 (issuing of Marriage Schedule), in subsection (7)—
- (a) after “district”, where first occurring, there is inserted “, is in Scottish waters instead of a registration district or is in a registration district instead of Scottish waters”; and
  - (b) in paragraph (a), the words “for the district in which the marriage is to be solemnised” are repealed.
- (5) In section 15 (registration of religious marriage), after subsection (4) there is inserted—
- “(5) In this section and section 16 of this Act, “the district registrar” means—
- (a) where the marriage has been solemnised in a registration district, the district registrar for that district;

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- (b) where the marriage has been solemnised in Scottish waters, the district registrar who issued the Marriage Schedule in respect of the marriage.”.
- (6) In section 18 (places at which civil marriages may be solemnised)—
- (a) in subsection (1)—
    - (i) at the end of paragraph (a), “or” is repealed; and
    - (ii) at the end of paragraph (b), there is inserted “; or
    - (c) on or in an approved vessel, while in Scottish waters.”; and
  - (b) after subsection (6) there is inserted—
    - “(7) For the purposes of this section, “approved vessel” means a vessel approved by virtue of regulations made under section 18A of this Act, by the home local authority.
    - (8) In subsection (7) above, the “home local authority” means the local authority which is the local registration authority for the authorised registrar’s registration district.”.
- (7) In section 18A (approved places regulations)—
- (a) in subsection (1)—
    - (i) the words “of places in their areas in which civil marriages may be solemnised” become paragraph (a); and
    - (ii) at the end of that paragraph there is inserted “; or
    - (b) of vessels on or in which, while they are in Scottish waters, their authorised registrars may solemnise marriages.
  - (1A) For the purposes of subsection (1)(b) above, a local authority’s authorised registrars are the authorised registrars for whose registration district the local authority is the local registration authority.”;
  - (b) in subsection (2)—
    - (i) in paragraph (a), after “place” there is inserted “or vessel”;
    - (ii) in paragraph (c), after “places” there is inserted “or vessels”;
    - (iii) in paragraph (f)(i), after “places” there is inserted “or vessels”; and
    - (iv) in paragraph (j), after “places” there is inserted “and vessels”; and
  - (c) in subsection (9), for the words from the beginning to “instrument”, where secondly occurring, there is substituted “Subject to subsection (10) below, a statutory instrument containing regulations made under subsection (1) above”.
- (8) In section 19 (registration of civil marriage)—
- (a) for paragraphs (a) and (b) of subsection (4) there are substituted—
    - “(a) in a case where the marriage has been solemnised by the authorised registrar—
      - (i) in his registration office;
      - (ii) in any such place as is mentioned in section 18(3) of this Act;
      - (iii) at an approved place in his district; or
      - (iv) in or on an approved vessel in Scottish waters,

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that authorised registrar;”

- (b) in a case where the marriage has been solemnised by the authorised registrar—
  - (i) in the registration office of another authorised registrar; or
  - (ii) at an approved place in the district of another authorised registrar,

that other authorised registrar;” and

- (b) after subsection (4) there is inserted—

“(5) In this section, “approved place” and “approved vessel” have the meanings given to those expressions, respectively, by subsections (6) and (7) of section 18 of this Act.”.

- (9) In section 26 (interpretation)—

- (a) in subsection (1), for “subsection (2)” there is substituted “subsections (2) and (2A)”;
- (b) in subsection (2)—
  - (i) the definition of “district registrar” is repealed; and
  - (ii) after the definition of “religious body” there are inserted the following definitions—

““Scottish waters” means the area comprising such of the internal waters and territorial sea of the United Kingdom as are within Scotland (“Scotland” having the meaning given by section 126(1) and (2) of the Scotland Act 1998 (c. 46)), other than any area which is part of a registration district;

“vessel” includes any—

- (a) vehicle; or
- (b) other structure.”;

- (c) after subsection (2) there is inserted—

“(2A) For the purposes of this Act—

- (a) the seaward boundary of a registration district which extends into the sea shall, subject to paragraph (b) below, be the low water mark of the ordinary spring tide;
- (b) a vessel which is below the low water mark of the ordinary spring tide is to be regarded as within a registration district if it is—
  - (i) positioned adjacent to land which is within the district;
  - (ii) affixed to the land for the purpose of maintaining its position; and
  - (iii) so positioned for the purpose of enabling access to and from the land;
- (c) a jetty or similar structure which is partly above the low water mark of the ordinary spring tide and partly below that mark is to be regarded as being wholly above that mark.”.

#### **49 Marriage procedure: miscellaneous amendments**

In section 4 of the 1977 Act (notice of intended marriages)—

- (a) for subsection (2) there is substituted—
  - “(2) The district registrar shall maintain a list of the intended marriages in respect of which he has received a marriage notice or an approved certificate (the “district list”).
  - (2A) Subject to subsection (2B) below, the district list shall be displayed in a conspicuous place at the registration office.
  - (2B) If the registration office comprises more than one set of premises, it shall be sufficient for the purpose of subsection (2A) above if the district registrar displays the list in a conspicuous place at the principal premises only.
  - (2C) The district registrar shall, as soon as practicable after he has received a marriage notice or an approved certificate in relation to an intended marriage—
    - (a) make an entry in the district list containing the relevant particulars of the marriage; and
    - (b) provide (in such form and by such means as the Registrar General thinks fit) the relevant particulars of the marriage to the Registrar General.
  - (2D) The Registrar General shall maintain a list of proposed marriages in Scotland (the “Scottish list”).
  - (2E) The Registrar General shall make the Scottish list available for public inspection (at such locations, by such means and in such forms as the Registrar General thinks fit).
  - (2F) The Registrar General shall, as soon as practicable after the relevant particulars of a marriage are provided to him under subsection (2C)(b) above, make an entry in the Scottish list containing those particulars.
  - (2G) An entry in a district list or the Scottish list shall remain in that list until the proposed date of the marriage to which it relates has elapsed.”; and
- (b) after subsection (3) there is inserted—
  - “(4) For the purpose of this section, the relevant particulars of a marriage are such particulars, extracted from the marriage notice book, as may be prescribed.”.

#### **50 Marriage procedure: electronic communications**

- (1) The 1977 Act is amended in accordance with subsections (2) to (10).
- (2) In section 3 (submission of notice of intention to marry)—
  - (a) in subsection (1), for “accompanied by” there is substituted “and”;
  - (b) in subsection (3), for “attach to that document” there is substituted “also submit”; and
  - (c) after subsection (3), there is inserted—

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- “(3A) A person submitting a notice under subsection (1) above shall make and attest in the prescribed manner the necessary declaration (the form for which shall be included in any form prescribed for the notice).
- (3B) The necessary declaration is a declaration that the person submitting the notice believes that the parties to the marriage are eligible to be married to each other.”.
- (3) In section 5 (objections to marriage)—
- (a) in subsection (1)—
- (i) for “be accompanied by” there is substituted “not be treated as submitted until there has also been produced to the registrar”; and
- (ii) for “signed” there is substituted “attested in the prescribed manner”; and
- (b) after subsection (1) (submission in writing of objection to marriage) there is inserted—
- “(1A) For the purpose of subsection (1) above, an objection which is submitted to the registrar by electronic means is to be treated as in writing if it is received in a form which is legible and capable of being used for subsequent reference.”.
- (4) In section 6 (issuing of Marriage Schedule), after subsection (4) there is inserted—
- “(4A) For the purpose of subsection (4)(a)(i) above, a request which is made by electronic means is to be treated as being written if it is received in a form which is legible and capable of being used for subsequent reference.”.
- (5) In section 7 (marriage outside Scotland where a party resides in Scotland), after subsection (3) there is inserted—
- “(4) For the purpose of subsection (3) above, an objection which is submitted by electronic means is to be treated as in writing if it is received in a form which is legible and capable of being used for subsequent reference.”.
- (6) In section 9 (registration of nominated persons as celebrants), after subsection (5) there is inserted—
- “(5A) For the purpose of subsection (5)(b) above, notice which is given by electronic means is to be treated as in writing if it is received in a form which is legible and capable of being used for subsequent reference.”.
- (7) In section 10 (removal of celebrant’s name from register), after subsection (2) there is inserted—
- “(2A) For the purpose of subsection (2) above, notice which is given by electronic means is to be treated as in writing if it is received in a form which is legible and capable of being used for subsequent reference.”.
- (8) In section 12 (temporary authorisation of celebrants)—
- (a) the existing section becomes subsection (1) of that section; and
- (b) after that subsection there is inserted—



“(2) For the purpose of subsection (1) above, an authorisation which is issued by electronic means is to be treated as written if it is received in a form which is legible and capable of being used for subsequent reference.”.

(9) In section 19 (marriage ceremony and registration of marriage), after subsection (1) there is inserted—

“(1A) For the purpose of subsection (1) above, a request which is made by electronic means is to be treated as written if it is received in a form which is legible and capable of being used for subsequent reference.”.

(10) After section 24 there is inserted—

#### **“24A Form, and manner of attestation, of documents**

(1) Regulations prescribing the form of a document may, unless the document requires to be signed, make provision for the document to be electronic rather than paper-based.

(2) Regulations prescribing the manner in which a document requires to be attested may make different provision for different cases or circumstances.”.

### **51 Civil partnership procedure: registrations at sea**

In section 93 of the 2004 Act (place of registration)—

(a) in subsection (2), for the words from “outwith” to the end there is substituted “—

(a) in a registration district other than that of the authorised registrar carrying out the registration, or

(b) in or on Scottish Waters.”; and

(b) after subsection (4) there is inserted—

“(5) “Scottish Waters” has the meaning given by section 26(2) of the Marriage (Scotland) Act 1977 (c. 15).”.

### **52 Civil partnership procedure: miscellaneous amendments**

(1) The 2004 Act is amended in accordance with subsections (2) to (7).

(2) In section 88 (notice of proposed civil partnership)—

(a) in subsection (1), the words “and accompanied by the prescribed fee” are omitted;

(b) in subsection (2), for the words from the beginning, to the end of paragraph (a), there is substituted—

“Each of the intended civil partners must also pay the prescribed fee and submit the following documents—

(a) that person’s birth certificate.”;

(c) in subsection (5), for “sign” there is substituted “attest in the prescribed manner”; and

(d) after subsection (5) there is inserted—

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

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“(5A) Regulations prescribing the form of the notice of proposed civil partnership may make provision for the notice to be electronic rather than paper-based.”.

- (3) In section 90 (publicisation of proposed civil partnership), in subsection (1)—
- (a) for “submitted to” there is substituted “received by”;
  - (b) for “the day on which they are submitted” there is substituted “such receipt”;
  - (c) for “submitted”, where thirdly occurring, there is substituted “received”; and
  - (d) for “the day on which the first is submitted” there is substituted “the first is received”.
- (4) In section 92 (objections to registration)—
- (a) after subsection (1) there is inserted—
 

“(1A) For the purpose of subsection (1), an objection which is submitted to the registrar by electronic means is to be treated as in writing if it is received in a form which is legible and capable of being used for subsequent reference.”; and
  - (b) in subsection (2)—
    - (i) for “be accompanied by” there is substituted “not be treated as submitted until there has also been produced to the registrar”; and
    - (ii) for “signed” there is substituted “attested in the prescribed manner”.
- (5) After section 95 there is inserted—

**“95A Validity following entry in civil partnership register**

- (1) Subsection (2) applies where the particulars set out in a civil partnership schedule signed in accordance with section 85 are entered in the civil partnership register in pursuance of section 95(2).
- (2) The validity of the registration as civil partners to which the schedule relates is not to be questioned in any legal proceedings on the ground of failure to comply with a requirement or restriction imposed by or under this Part.
- (3) Subsection (2)—
  - (a) is subject to section 85(2), and
  - (b) does not prejudice section 100.”.
- (6) For section 98 (application of certain sections of 1965 Act to civil partnership register) there is substituted—

**“98 Application of certain provisions to civil partnerships**

- (1) The following sections of the 1965 Act apply in relation to the civil partnership register as they apply in relation to the registers of births, marriages and deaths—
  - (a) section 34 (examination and transmission of registers),
  - (b) section 38(1) and (2) (search of indexes kept by Registrar General),
  - (c) section 39C (provision of information to district registrars), and
  - (d) section 44 (Register of Corrections Etc.).

- (2) Section 39A of the 1965 Act (notice of registration events to third parties) applies in relation to a civil partnership as it applies in relation to a marriage.
- (3) In that application, the reference in section 39A(2)(c) to the marriage having been registered in accordance with section 15 or 19 of the Marriage (Scotland) Act 1977 (c. 15) is to be read as a reference to the particulars of the formation of the civil partnership having been entered in the civil partnership register under section 95(2) of this Act.”.
- (7) In section 122 (registration of dissolution of civil partnership), after subsection (6) there is inserted—
  - “(7) Section 39C of the 1965 Act applies in relation to the Register of Dissolutions of Civil Partnership as it applies in relation to the Register of Divorces.”.

### **53 Provision of information about civil partnerships for certain purposes: fees**

- (1) In section 10B of the Savings Bank Act 1887 (c. 40) (civil partnership certificates: Scotland), in subsection (2), after “Scotland” there is inserted “and on payment of the sum of £8.50”.
- (2) In section 124B of the Social Security Administration Act 1992 (c. 5) (provisions relating to civil partnership: Scotland), after “behalf,” there is inserted “and on payment of the sum of £8.50”.
- (3) In Schedule 3 to the Public Expenditure and Receipts Act 1968 (c. 14)—
  - (a) in the entry for the Savings Bank Act 1887, for “section 10” there is inserted “sections 10 and 10B(2)”; and
  - (b) in the entry for the Social Security Administration Act 1992, for “section 124(3)” there is inserted “sections 124(3) and 124B(1)”.

#### *Recording of events relating to persons outwith Scotland*

### **54 Recording of certain events in Book of Scottish Connections**

- (1) The Registrar General is to keep a register to be known as the Book of Scottish Connections (“the BSC”) for the purpose of recording, in accordance with subsection (6), qualifying events.
- (2) The following events are qualifying events—
  - (a) a person’s birth, where—
    - (i) the birth occurred outside Scotland; and
    - (ii) the person falls within subsection (4);
  - (b) a person’s death, where—
    - (i) the death occurred outside Scotland; and
    - (ii) the person falls within subsection (4) or (5);
  - (c) a marriage, where—
    - (i) the marriage occurred outside Scotland; and
    - (ii) at least one of the parties falls within subsection (4) or (5);
  - (d) the formation in a part of the United Kingdom other than Scotland, of a civil partnership, where at least one of the parties falls within subsection (4) or (5);

- (e) the entering into of an overseas relationship, where at least one of the parties falls within subsection (4) or (5);
  - (f) a divorce or dissolution of a civil partnership (formed in any part of the United Kingdom) or overseas relationship, where—
    - (i) the divorce or dissolution occurred outside Scotland; and
    - (ii) at least one of the parties to the divorce or dissolution falls within subsection (4) or (5).
- (3) In subsection (2)—
- (a) a reference to an event occurring outside Scotland is a reference to its occurring in any other part of the United Kingdom or elsewhere; and
  - (b) “overseas relationship” has the meaning given by section 212 of the 2004 Act.
- (4) A person falls within this subsection if—
- (a) one of the person’s parents or grandparents was born in Scotland; or
  - (b) there is an entry in the BSC in respect of any event relating to one of the person’s parents or grandparents.
- (5) A person falls within this subsection if—
- (a) the person was born in Scotland; or
  - (b) the person was normally resident in Scotland at the time of the event.
- (6) The Registrar General is to make an entry in the BSC in respect of a qualifying event where—
- (a) an application has been made for the recording of the event;
  - (b) the application is in the prescribed form;
  - (c) such fees as may be prescribed are paid;
  - (d) such documents as may be prescribed are submitted; and
  - (e) the Registrar General considers it appropriate to do so.

## **55 Keeping of, and access to, the Book of Scottish Connections**

- (1) The BSC is to be kept in such form as the Registrar General determines.
- (2) An entry in the BSC is to be in such form as may be prescribed.
- (3) Each entry in the BSC is to be included in an index maintained by the Registrar General (“the BSC index”).
- (4) The BSC index is to be kept in such form as the Registrar General determines.
- (5) The Registrar General may delete or amend any entry in the BSC or substitute another for it.
- (6) Where a person pays such fee as may be prescribed, the Registrar General is, if the General Register Office is open for the purpose, to—
  - (a) search (or permit the person to search) the BSC index; and
  - (b) issue to the person a copy of an entry in the BSC.
- (7) The Registrar General is to make arrangements for the district registrar for each registration district to have access to—
  - (a) a copy of such of, or such parts of, the BSC as the Registrar General may determine; and

- (b) an index of that material.
- (8) For the purposes of subsection (7)—
  - (a) a copy is to be made by such means as the Registrar General may determine; and
  - (b) different arrangements and determinations may be made in respect of different registration districts.
- (9) Where a person pays such fee as may be prescribed, the district registrar for a registration district is, if the part of the registration office concerned is open for the purpose, to—
  - (a) search (or permit the person to search) the index to which the registrar has access by virtue of subsection (7)(b); and
  - (b) issue to the person a copy or extract of any of the material so indexed.

*Other provisions about information held by Registrar General*

**56 Provision of registration information to public bodies and office-holders**

- (1) The Registrar General may provide any information contained in a register mentioned in subsection (2) to any public body or office-holder (in Scotland, in any other part of the United Kingdom or in a country or territory outside the United Kingdom).
- (2) Those registers are—
  - (a) a register of births, still-births, deaths or marriages transmitted to the Registrar General under the 1965 Act or any enactment repealed by that Act;
  - (b) a Register of Corrections Etc. or a civil partnership register transmitted to the Registrar General under the 1965 Act;
  - (c) the Register of Divorces;
  - (d) the Register of Dissolutions of Civil Partnership.
- (3) The Registrar General may charge for the provision of information under this section.

**57 Keeping of central register for health and local authority purposes**

- (1) The Registrar General may, for the purposes of facilitating the carrying out of the functions of Health Boards, the Common Services Agency and local authorities, create and maintain, using the information mentioned in subsection (2), a register of individuals.
- (2) That information is—
  - (a) information contained in—
    - (i) the registers of births and deaths transmitted to the Registrar General under the 1965 Act;
    - (ii) the Adopted Children Register;
  - (b) such information as the Registrar General may direct a Health Board or the Common Services Agency to provide for the purposes of the creation and maintenance of the register referred to in subsection (1);
  - (c) information contained in a register of births, deaths or adoptions held by the Registrar General for England and Wales;

- (d) information contained in a register held by a Minister of the Crown or a government department which is a register of individuals which exists for the same purpose as, or a similar purpose to, a register created under subsection (1);
  - (e) information contained in a register held by the Northern Ireland Central Services Agency for the Health and Social Services which is a register of individuals which exists for the same purpose as, or a similar purpose to, a register created under subsection (1);
  - (f) such other information held by such persons, or persons within such descriptions, or contained in such places as may be prescribed.
- (3) An entry in a register created under subsection (1) may contain only the following information—
- (a) the person's name and surname and any previous names or surnames;
  - (b) the person's sex;
  - (c) the person's date of birth;
  - (d) a reference code indicating the Health Board which made the arrangements in consequence of which the person is presently provided with primary medical services (that expression being construed in accordance with the National Health Service (Scotland) Act 1978 (c. 29));
  - (e) a reference code indicating any Health Board which made arrangements in consequence of which the person was previously provided with such services;
  - (f) a reference code indicating any body having, or having had, for an area in England or Wales, functions the same as, or similar to, those of a Health Board, in whose area is, or was, situated—
    - (i) any general medical practitioner practice with which the person was previously registered; or
    - (ii) the premises whose address was recorded for the purposes of such a registration as being the person's home address;
  - (g) a reference code indicating that the person was previously registered with a general medical practitioner practice in Northern Ireland;
  - (h) such reference numbers relating uniquely to the person as the Registrar General may determine; and
  - (i) such other information about the person as may be prescribed.
- (4) The Registrar General may provide to Health Boards, the Common Services Agency, local authorities or such persons, or persons within such descriptions, as may be prescribed such information from a register created under subsection (1) as may, in accordance with regulations under subsection (6), be provided.
- (5) The purposes for which information may be provided under subsection (4) are not limited to those referred to in subsection (1).
- (6) The information which may be, or must not be, provided under subsection (4) to such recipients as are prescribed in relation to that information must be prescribed.
- (7) In subsection (6), references to information include references to information of prescribed kinds, and the reference to recipients includes a reference to recipients of prescribed descriptions.
- (8) This section does not prejudice section 1(3) of the 1965 Act or section 56 of this Act.

## **58 Issuing of other material kept or held by Registrar General**

- (1) In this section, “the accessible material” means such of, or such parts of, the relevant material as the Registrar General may determine.
- (2) In subsection (1), “the relevant material” means the documents kept or held by the Registrar General (whether by virtue of an enactment or otherwise) other than—
  - (a) a register of births, still-births, deaths or marriages transmitted to the Registrar General under the 1965 Act or any enactment repealed by that Act;
  - (b) a civil partnership register transmitted to the Registrar General under the 1965 Act;
  - (c) the Register of Divorces;
  - (d) the Register of Dissolutions of Civil Partnership;
  - (e) a parochial register;
  - (f) the Register of Corrections Etc.;
  - (g) the BSC;
  - (h) a register created under section 57(1);
  - (i) a document containing census information which is personal census information (“census information” and “personal census information” having the meanings given to those expressions by section 8(7) of the Census Act 1920 (c. 41));
  - (j) a document containing information obtained by virtue of the Population Statistics Act 1938 (c. 12);
  - (k) the Adopted Children Register or a register or book kept under section 45(4) of the Adoption (Scotland) Act 1978 (c. 28);
  - (l) the Gender Recognition Register.
- (3) The Registrar General is to prepare and maintain an index of the accessible material.
- (4) Subsection (3) does not prejudice any other power or duty of the Registrar General to prepare an index of any of the relevant material.
- (5) Where a person pays such fee as may be prescribed, the Registrar General is, if the General Register Office is open for the purpose, to—
  - (a) search the index maintained under subsection (3) (or permit the person to do so); and
  - (b) issue to the person a copy or extract of any of the material so indexed.
- (6) The Registrar General is to make arrangements for the district registrar for each registration district to have access to—
  - (a) a copy of such of, or such parts of, the accessible material as may be prescribed; and
  - (b) an index of that material.
- (7) For the purposes of subsection (6)—
  - (a) a copy is to be made by such means as the Registrar General may determine; and
  - (b) different arrangements and determinations may be made in respect of different registration districts.

- (8) Where a person pays such fee as may be prescribed, the district registrar for a registration district is, if the part of the registration office concerned is open for the purpose, to—
- (a) search (or permit the person to search) the index to which the registrar has access by virtue of subsection (6)(b); and
  - (b) issue to the person a copy of any of the material so indexed.

### *General*

## **59 Part 2: minor and consequential modifications**

- (1) In the 1965 Act—
  - (a) the proviso to section 7(7) is repealed; and
  - (b) in section 12 (fees: accounting of district registrars)—
    - (i) the word “and”, where secondly occurring, is repealed; and
    - (ii) after “1977” there is inserted “and Part 2 of the Local Electoral Administration and Registration Services (Scotland) Act 2006 (asp 14)”.
- (2) In section 28 of the Local Government (Scotland) Act 1973 (c. 65) (supplementary), subsection (3) is repealed.
- (3) In section 51 of the Local Government etc. (Scotland) Act 1994 (c. 39) (registration of births, deaths and marriages), subsection (2) is repealed.
- (4) In section 21 of the Asylum and Immigration (Treatment of Claimants, etc.) Act 2004 (c. 19) (procedure for marriage in Scotland of person subject to immigration control), in subsection (4)(a), for “which accompanied them” there is substituted “submitted in pursuance of section 3 of the Marriage (Scotland) Act 1977 (c. 15) in relation to the marriage”.
- (5) In Schedule 23 to the 2004 Act (immigration control and formation of civil partnerships), in paragraph 10(2)(a), for “certificate or declaration which accompanied them” there is substituted “paid, or any certificate or declaration submitted, in pursuance of section 88 in relation to the proposed civil partnership”.

## **60 Interpretation of Part 2**

- (1) In this Part—
  - “prescribed” means prescribed by regulations made by the Registrar General with the approval of the Scottish Ministers;
  - “the 1965 Act” means the Registration of Births, Deaths and Marriages (Scotland) Act 1965 (c. 49);
  - “the 1977 Act” means the Marriage (Scotland) Act 1977 (c. 15); and
  - “the 2004 Act” means the Civil Partnership Act 2004 (c. 33).
- (2) Subject to subsection (1), any word or expression used in this Part which is also used in the 1965 Act has the same meaning for the purposes of this Part as it has for the purposes of that Act.



## PART 3

### GENERAL

#### 61 Orders and regulations

- (1) Any power conferred by this Act to make an order or regulations is exercisable by statutory instrument.
- (2) Orders and regulations under this Act may make—
  - (a) different provision for different purposes; and
  - (b) supplemental, incidental, consequential, transitory, transitional or saving provision.
- (3) Subject to subsections (4) to (6), a statutory instrument containing an order or regulations made under this Act is subject to annulment in pursuance of a resolution of the Scottish Parliament.
- (4) The following orders and regulations are not to be made unless a draft of the statutory instrument containing the order or regulations has been laid before and approved by the Scottish Parliament—
  - (a) regulations under section 5(2)(b), (4), (5) or (8); or
  - (b) an order under section 62(1)(a) containing provision which adds to, replaces or omits any part of the text of an Act.
- (5) Subsection (3) does not apply to an order containing provision under section 7(9) if a draft of the statutory instrument containing the order has been laid before and approved by resolution of the Parliament.
- (6) Subsection (3) does not apply to an order under section 63(2).

#### 62 Ancillary provision

- (1) The Scottish Ministers may by order—
  - (a) make supplemental, incidental or consequential provision for the purposes of, for giving full effect to, or in consequence of, any provision of this Act;
  - (b) make provision for transitory, transitional or savings purposes in connection with the coming into force of any provision of this Act.
- (2) An order under subsection (1)(a) may modify any enactment.

#### 63 Short title and commencement

- (1) This Act may be cited as the Local Electoral Administration and Registration Services (Scotland) Act 2006.
- (2) Except this section and sections 61 and 62, this Act comes into force in accordance with provision made by order by the Scottish Ministers.

## SCHEDULE 1

*(introduced by section 17(4))*

### SCHEDULE TO BE INSERTED BEFORE SCHEDULE 5 TO THE 1983 ACT

#### “SCHEDULE 4B

#### SCOTTISH LOCAL GOVERNMENT ELECTIONS: ELECTION EXPENSES

##### PART 1

###### LIST OF MATTERS

- 1      Advertising of any nature (whatever the medium used).  
          Expenses in respect of such advertising include agency fees, design costs and other costs in connection with preparing, producing, distributing or otherwise disseminating such advertising or anything incorporating such advertising and intended to be distributed for the purpose of disseminating it.
- 2      Unsolicited material addressed to electors (whether addressed to them by name or intended for delivery to households within any particular area).  
          Expenses in respect of such material include design costs and other costs in connection with preparing, producing or distributing such material (including the cost of postage).
- 3      Transport (by any means) of persons to any place.  
          Expenses in respect of the transport of such persons include the costs of hiring a means of transport for a particular period.
- 4      Public meetings (of any kind).  
          Expenses in respect of such meetings include costs incurred in connection with the attendance of persons at such meetings, the hire of premises for the purposes of such meetings or the provision of goods, services or facilities at them.
- 5      The services of an election agent or any other person whose services are engaged in connection with the candidate’s election.
- 6      Accommodation and administrative costs.

##### PART 2

###### GENERAL EXCLUSIONS

- 7      The publication of any matter, other than an advertisement, relating to the election in—
  - (a) a newspaper or periodical;
  - (b) a broadcast made by the British Broadcasting Corporation;
  - (c) a programme included in any service licensed under Part 1 or 3 of the Broadcasting Act 1990 (c. 42) or Part 1 or 2 of the Broadcasting Act 1996 (c. 55).

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

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- 8 The provision of any facilities provided in pursuance of any right conferred on candidates at an election by this Act other than facilities in respect of which expenses fall to be defrayed by virtue of section 96(4) above.
- 9 The provision by an individual of his own services which he provides voluntarily in his own time and free of charge.
- 10 (1) Accommodation which is the candidate's sole or main residence.  
(2) The provision by any other individual of accommodation which is his sole or main residence if the provision is made free of charge.
- 11 (1) Transport by a means of transport which was acquired by the candidate principally for his own personal use.  
(2) Transport provided free of charge by any other individual if the means of transport was acquired by him principally for his own personal use.
- 12 (1) Computing or printing equipment which was acquired by the candidate principally for his own personal use.  
(2) The provision by any other individual of computing or printing equipment which was acquired by the individual principally for his own personal use if the provision is made free of charge.

### PART 3

#### POWER TO AMEND PARTS 1 AND 2

- 13 (1) The Scottish Ministers may by order made by statutory instrument make such amendment of Part 1 or 2 of this Schedule as they consider appropriate.  
(2) An order under sub-paragraph (1) may contain such incidental, supplemental, saving or transitional provisions as the Scottish Ministers think fit.  
(3) No order is to be made under sub-paragraph (1) unless a draft of the instrument containing the order has been laid before and approved by resolution of the Scottish Parliament."

### SCHEDULE 2

*(introduced by section 35)*

#### PART 1: MINOR AND CONSEQUENTIAL MODIFICATIONS

##### *Representation of the People Act 1983 (c. 2)*

- 1 The 1983 Act is amended as follows.
- 2 In section 66(1) (requirement of secrecy), before "shall", where first occurring, insert—  
“(d) every person so attending in pursuance of permission granted under section 8 or 9 (observers at Scottish local government elections) of the Local Electoral Administration and Registration Services (Scotland) Act 2006 (asp 14),”.

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

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- 3 In section 73(5)(d) (payment of expenses through election agent), for “section 90A(5)(b)” substitute “section 90ZB(7)”.
- 4 In section 74A (expenses which may be paid otherwise than by election agent)—
- (a) in subsection (1)(b), for “section 90A(1)” substitute “section 90ZB(2)”,
  - (b) in subsection (2), the words “(determined in accordance with section 90B below)” are repealed,
  - (c) in subsection (3), for “sections 90A to” substitute “section 90ZB and”.
- 5 In section 76A(2) (application of power to vary provisions about election expenses)—
- (a) the word “or” immediately following paragraph (c) is repealed,
  - (b) after paragraph (c) insert—  
“(ca) section 75A(5) above; or”.
- 6 In section 81 (return as to election expenses)—
- (a) in subsection (2)(c), after “section 75(2)” insert “or 75A(6)”,
  - (b) in subsection (9)—
    - (i) for “subsection (3)” substitute “subsection (4A)”, and
    - (ii) the words “of each such matter” are repealed.
- 7 In section 89 (inspection of returns and declarations)—
- (a) in subsection (1), after “section 75,” insert “75A,”,
  - (b) in subsection (3), after “section 75” insert “or 75A”.
- 8 In section 90C(2) (property, goods, services etc. provided free of charge or at a discount), for “section 90A(3)” substitute “section 90ZB(4)”.
- 9 In section 118 (interpretation of Part 2), in the definition of “election expenses” for “sections 90A” substitute “sections 90ZB”.
- 10 In section 129(7)(b) (time for presentation or amendment of petition questioning local election), after “section 75” insert “or 75A”.
- 11 In section 168(1)(a)(i) (prosecution for corrupt practices), before “above” insert “or 62B”.
- 12 In section 179 (offences by associations), after “section 110” insert “or 110A”.
- 13 The amendments made by paragraphs 3, 4, 6(b), 8 and 9 apply to the 1983 Act only so far as it applies to a local government election in Scotland.

*Scottish Local Government (Elections) Act 2002 (asp 1)*

- 14 In section 5(4) of the Scottish Local Government (Elections) Act 2002, for “75(1)” substitute “75A(2)”