
SCOTTISH STATUTORY INSTRUMENTS

2009 No. 352

The Health Board Elections (Scotland) Regulations 2009

Application of Part 3 of the 1983 Act

6. Part 3 of the 1983 Act applies to a Health Board election as it applies to an election of councillors in Scotland⁽¹⁾ subject to the following modifications—

- (a) any reference to—
 - (i) an election under the local government Act; or
 - (ii) a local government election (except for the reference in the definition of “elective office” in section 185),is to be read as a reference to a Health Board election;
- (b) any reference to—
 - (i) a local authority (except for the reference in the definition of “public office” in section 185); or
 - (ii) an authority,is to be read as a reference to a Health Board;
- (c) any reference to an election agent is to be read as a reference to a counting agent appointed under rule 20;
- (d) any reference to councillors is to be read as a reference to elected Health Board members, with the exception of the reference in the definition of “public office”;
- (e) for section 138 substitute—

“**138.**—(1) In the case of an election petition questioning a Health Board election, two or more candidates may be made respondents to the same petition, and their cases may be tried at the same time, but for the purposes of this Part of this Act the petition shall be deemed to be a separate petition against each respondent.

(2) Where two or more election petitions are presented relating to the same Health Board election they shall be tried together.”;

- (f) in section 147(2), for “constituency or local government area” substitute “Health Board area”;
- (g) in section 159(3), for “councillor of any local authority in Scotland” substitute “member of any Health Board”;
- (h) for section 160(4), substitute—

“(4) Subject to the provisions of subsection (4A) below and section 174 below, a candidate or other person reported by an election court personally guilty of a corrupt or illegal practice shall during the relevant period specified in subsection (5) below be incapable of voting at any Health Board election in Scotland.”;

(1) Part 3 of the 1983 Act is applied to the election of councillors by [S.S.I. 2007/42](#). Article 4 of that instrument provides that sections 120 to 126, 128(3)(a) and (4), 130 to 133, 135 and 135A, 144 and 145 of the 1983 Act do not apply to such elections.

- (i) in section 160(4A), for “(4)(a)(i)” substitute “(4)”;
- (j) omit section 160(5A);
- (k) for section 173 substitute—

“**173.**—(1) Subject to subsection (2) below, a person convicted of a corrupt or illegal practice shall, during the relevant period specified in subsection (3) below, be incapable of voting at any Health Board election in Scotland.

(2) The incapacity imposed by subsection (1) above applies only to a person convicted of a corrupt practice under section 60, 62A or 62B above or of an illegal practice under section 61 above.

(3) For the purposes of subsection (1) above the relevant period is the period beginning with the date of the conviction and ending—

(a) in the case of a person convicted of a corrupt practice, five years after that date, or

(b) in the case of a person convicted of an illegal practice, three years after that date, except that if (at any time within that period of five or three years) a court determines on an appeal by that person against the conviction that it should not be upheld, the relevant period shall end at that time instead.

(4) Any incapacities or other requirements applying to a person by virtue of subsection (1) above apply in addition to any punishment imposed under section 168 or 169 above but each of those subsections has effect subject to section 174 below.”; and

- (l) in section 185—

- (i) for the definition of “appropriate officer” substitute—

““appropriate officer” means the chairman of the Health Board for which the Health Board election in question was held;”;

- (ii) for the definition of “candidate” substitute—

““candidate” means an individual nominated as a candidate in a Health Board election;”;

- (iii) for the definition of “declaration as to election expenses” substitute—

““declaration as to election expenses” means a statement made by a candidate under rule 56(1) of the Health Board election rules in the Schedule to the Health Board Elections (Scotland) Regulations 2009;”;

- (iv) in the definition of “public office” after “councillor” insert “elected member of a Health Board”;

- (v) for the definition of “return as to election expenses” substitute—

““return as to election expenses” means a statement made by a candidate under rule 56(1) of the Health Board election rules in the Schedule to the Health Board Elections (Scotland) Regulations 2009;”.