



Local Government Act (Northern Ireland) 1972

1972 CHAPTER 9

PART II

MEMBERS, MEETINGS AND PROCEDURE

PECUNIARY INTERESTS

28 Disclosure of councillors' pecuniary interests and disability from voting on account thereof.

^{F1}(1) Except as provided by section 29 and subject to subsection (2), it shall be the duty of every councillor who has any pecuniary interest, direct or indirect, in any contract or proposed contract or other matter and is present at any meeting of the council at which that contract, proposed contract or other matter is, or is to be, considered to disclose openly to the meeting and as soon as practicable after the commencement thereof the nature of his interest and—

- (a) not to preside over or take any part in the consideration or discussion of, or to vote on any question with respect to, that contract, proposed contract, or other matter; and
- (b) unless the contract, proposed contract or other matter is under consideration by the council merely as part of a report of a committee or sub-committee thereof and does not itself become the subject of separate debate, to withdraw from the meeting while that matter is being considered.

(2) Where the councillor in question is treated as having a pecuniary interest by reason only of his beneficial ownership of shares in a company or other body to which section 146(1)(b) applies and the total nominal value of those shares does not exceed the lesser of—

- (a) five hundred pounds; or

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- (b) one-hundredth of the total nominal value of either the issued share capital of the company or body or, where that capital is issued in shares of more than one class, of the issued share capital of the class or classes of shares in which he has an interest;
- subsection (1) shall not have effect in relation to that pecuniary interest.
- (3) It shall be the duty of every council to record in the minutes of a meeting particulars of any disclosure made to that meeting under subsection (1) and of any subsequent withdrawal from the meeting pursuant to that subsection.
- (4) In addition, the clerk of the council shall enter in a separate book to be kept by him for the purpose, a record of every such disclosure or withdrawal and of every disclosure or withdrawal required to be made under section 30 or 46 and that book shall be available at all reasonable hours for inspection by any councillor or^{F2} by any person].
- (5) Subject to subsection (6) and without prejudice to section 31, any person who acts in contravention of subsection (1) shall be guilty of an offence and shall be liable—
- (a) on conviction on indictment, to imprisonment for a term not exceeding one year or to a fine or to both; or
 - (b) on summary conviction, to a fine not exceeding^{F3} level 3 on the standard scale].
- (6) It shall be a defence for the person charged with an offence under subsection (5) to prove that at the time of the offence—
- (a) he did not know and had no reason to believe that the contract, proposed contract or other matter in which he had a pecuniary interest was being considered at the meeting; or
 - (b) that he believed, in good faith and upon reasonable grounds, that he had no pecuniary interest which he would be required to disclose under subsection (1).
- (7) A prosecution for an offence under this section shall not be instituted except by or with the consent of the Attorney-General, and the bringing of, or the failure to bring, such a prosecution shall not affect any proceedings instituted by the Attorney-General under section 31 with respect to any transaction to which that section applies.
- (8) A reference in this section to a person being a councillor shall include a reference to his sitting or voting or otherwise acting as a councillor.

F1 1965 c.13 (NI), 1970 c.9 (NI), 1972 NI 14, 1981 NI 3

F2 1998 c. 32

F3 1984 NI 3

Modifications etc. (not altering text)

- C1** S. 28 applied (with modifications) (1.4.2009) by [Health and Social Care \(Reform\) Act \(Northern Ireland\) 2009 \(c. 1\)](#), ss. 7(2), 34(3), **Sch. 1 para. 11(1)** (with Sch. 1 para. 11(2)); S.R. 2009/114, **art. 2**
- C2** S. 28 applied (with modifications) (1.4.2009) by [Health and Social Care \(Reform\) Act \(Northern Ireland\) 2009 \(c. 1\)](#), ss. 7(2), 34(3), **Sch. 2 para. 11(1)** (with Sch. 2 para. 11(2)); S.R. 2009/114, **art. 2**
- C3** Ss. 28-33 applied (with modifications) (1.4.2012) by [Justice Act \(Northern Ireland\) 2011 \(c. 24\)](#), s. 111(3), **Sch. 2 para. 20** (with s. 106(4)); S.R. 2012/142, **art. 2(a)**
- C4** Ss. 28-33 applied (with modifications) (1.4.2012) by [Justice Act \(Northern Ireland\) 2011 \(c. 24\)](#), s. 111(3), **Sch. 1 para. 20** (with s. 106(4)); S.R. 2012/142, **art. 2(a)**

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- C5** S. 28(4) modified (1.4.2009) by Health and Social Care (Reform) Act (Northern Ireland) 2009 (c. 1), ss. 7(2), 34(3), **Sch. 1 para. 11(1)(b)**; S.R. 2009/114, **art. 2**
- C6** S. 28(4) modified (1.4.2009) by Health and Social Care (Reform) Act (Northern Ireland) 2009 (c. 1), ss. 7(2), 34(3), **Sch. 2 para. 11(1)(b)**; S.R. 2009/114, **art. 2**

29 Restrictions on application of section 28.

- ^{F4}(1) Where (whether on the application of any council or of any councillor or in any other case) the Ministry is satisfied with respect to any pecuniary interest giving rise or likely to give rise to a disability under section 28(1) that—
- (a) the number of councillors who would for the time being be subject to disability on account of the pecuniary interest constitutes so great a proportion of the whole as to impede the transaction of the business of the council; or
 - (b) in any other case, it is, having regard to all circumstances appearing to the Ministry to be relevant, in the interests of the persons represented on a council that the pecuniary interest should not give rise to a disability under section 28;
- the Ministry may, subject to such conditions as it thinks proper, direct that so much of section 28 as would, but for this section, operate to impose any disability on account of that interest or to penalise any person on account thereof shall not apply in relation to that interest.
- (2) Section 28 shall, in its application in relation to any council in respect of which a direction is made by the Ministry under subsection (1), have effect subject to and in accordance with that direction.
- (3) Notwithstanding anything in section 28, a councillor shall not be subject to any duty, disability or penalty under that section by reason of his taking part in the consideration or discussion of, or vote on, the question whether any application should be made to the Ministry for a direction under this section.

F4 1965 c.13 (NI), 1970 c.9 (NI), 1972 NI 14, 1981 NI 3

Modifications etc. (not altering text)

- C3** Ss. 28-33 applied (with modifications) (1.4.2012) by Justice Act (Northern Ireland) 2011 (c. 24), s. 111(3), **Sch. 2 para. 20** (with s. 106(4)); S.R. 2012/142, **art. 2(a)**
- C4** Ss. 28-33 applied (with modifications) (1.4.2012) by Justice Act (Northern Ireland) 2011 (c. 24), s. 111(3), **Sch. 1 para. 20** (with s. 106(4)); S.R. 2012/142, **art. 2(a)**
- C7** S. 29 applied (with modifications) (1.4.2009) by Health and Social Care (Reform) Act (Northern Ireland) 2009 (c. 1), ss. 7(2), 34(3), **Sch. 1 para. 11(1)** (with Sch. 1 para. 11(2)); S.R. 2009/114, **art. 2**
- C8** S. 29 applied (with modifications) (1.4.2009) by Health and Social Care (Reform) Act (Northern Ireland) 2009 (c. 1), ss. 7(2), 34(3), **Sch. 2 para. 11(1)** (with Sch. 2 para. 11(2)); S.R. 2009/114, **art. 2**

30 Relatives of councillors.

- ^{F5}(1) Every councillor shall disclose to the council in writing any relevant family relationship known to him to exist between himself and any person who he knows either holds, or is a candidate for appointment to, any office under the council.
- (2) All disclosures made under subsection (1) shall as soon as practicable be brought by the clerk of the council to the notice of the council and—

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- (a) it shall be the duty of the council to record in its minutes particulars of the disclosure; and
 - (b) if the councillor required to make the disclosure is present at any meeting of the council at which any question relating to or affecting the appointment, remuneration, tenure or conditions of service, promotion, status, conduct, dismissal, suspension, retirement or superannuation of the person to whom he stands in a relevant family relationship is under consideration, he shall withdraw from that meeting while that question is being considered and his withdrawal shall be duly recorded in the minutes of the proceedings of that meeting.
- (3) Subsections (4), (7) and (8) of section 28 shall have effect for the purposes of this section as they have effect for the purposes of that section.
- (4) Any councillor who acts in contravention of subsection (1) or subsection (2)(b) shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding^{F6} level 3 on the standard scale].
- (5) It shall be a defence for a councillor charged with an offence under subsection (2)(b) to prove that—
- (a) he did not know and had no reason to believe that a question relating to or affecting a person to whom he stood in a relevant family relationship was being considered at the meeting referred to in that subsection; or
 - (b) the person to whom he stood in a relevant family relationship was only one of a class or category of persons similarly affected or likely to be similarly affected by a decision taken by the council with respect to the matter referred to in that subsection.
- (6) For the purposes of this section, a relevant family relationship shall be deemed to exist between a councillor and an officer or candidate if they are husband and wife^{F7} or civil partners] or if the officer or candidate, or the husband or wife^{F7} or civil partner] of the officer or candidate, is the—
- (a) parent;
 - (b) grandparent;
 - (c) grandson or granddaughter;
 - (d) son or daughter;
 - (e) brother or sister;
 - (f) uncle or aunt; or
 - (g) nephew or niece;
- of the councillor or of the husband or wife^{F7} or civil partner] of the councillor.

F5 1965 c.13 (NI), 1970 c.9 (NI), 1972 NI 14, 1981 NI 3

F6 1984 NI 3

F7 2004 c.33

Modifications etc. (not altering text)

C3 Ss. 28-33 applied (with modifications) (1.4.2012) by [Justice Act \(Northern Ireland\) 2011 \(c. 24\)](#), s. 111(3), **Sch. 2 para. 20** (with s. 106(4)); S.R. 2012/142, art. 2(a)

C4 Ss. 28-33 applied (with modifications) (1.4.2012) by [Justice Act \(Northern Ireland\) 2011 \(c. 24\)](#), s. 111(3), **Sch. 1 para. 20** (with s. 106(4)); S.R. 2012/142, art. 2(a)

C9 S. 30 applied (with modifications) (1.4.2009) by [Health and Social Care \(Reform\) Act \(Northern Ireland\) 2009 \(c. 1\)](#), ss. 7(2), 34(3), **Sch. 1 para. 11(1)** (with Sch. 1 para. 11(2)); S.R. 2009/114, **art. 2**

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C10 S. 30 applied (with modifications) (1.4.2009) by [Health and Social Care \(Reform\) Act \(Northern Ireland\) 2009 \(c. 1\)](#), ss. 7(2), 34(3), [Sch. 2 para. 11\(1\)](#) (with [Sch. 2 para. 11\(2\)](#)); S.R. 2009/114, [art. 2](#)

31 Recovery of wrongful gains and remedies against councillor guilty of reprehensible conduct.

- ^{F8}(1) Where any councillor has, knowingly and for purposes of gain,—
- (a) failed to disclose, in contravention of any of the provisions of this Act, his pecuniary interest, direct or indirect, in any relevant transaction; or
 - (b) taken part in, or influenced or sought to influence, any action of the council with respect to a relevant transaction; or
 - (c) used with respect to a relevant transaction information available to him as a councillor; or
 - (d) abused in any way with respect to a relevant transaction his position as a councillor;
- his conduct shall be deemed to be reprehensible within the meaning of this section.
- (2) If the Attorney-General considers that the conduct of any councillor was reprehensible within the meaning of this section, he may institute proceedings in the High Court for a declaration that the conduct of the councillor was reprehensible within the meaning of this section and for such further or other relief as may be given by the Court under this section.
- (3) Where in proceedings under subsection (2) the High Court is satisfied that the conduct of a councillor was reprehensible within the meaning of this section, the Court may make a declaration accordingly and, subject to subsection (4), may—
- (a) order that all gains of that councillor or of any other person which are in any way (directly or indirectly) attributable to such conduct shall be held upon trust for, and the amount or value thereof repaid to, that council;
 - (b) order that any relevant transaction be reopened and that the rights of any parties thereto or persons affected thereby be altered with a view to placing them as nearly as may be in the position they would, in the opinion of the Court, have been in if no councillor had been guilty of reprehensible conduct in or in relation to the affairs of that council;
 - (c) order that any relevant transaction shall be null and void or shall be rescinded either in whole or in part;
 - (d) order the payment (whether to that council or otherwise) by that councillor or by any other person directly or indirectly deriving gain from and having knowledge of, the reprehensible conduct of that councillor, of such sums by way of rectification, adjustment, compensation, restitution or restoration of unjust gain as the Court thinks just;
 - (e) order the payment—
 - (i) by that councillor; or
 - (ii) by any other person such as is referred to in paragraph (d); or
 - (iii) by that council out of any amount received by it pursuant to any order made under this section;of sums by way of compensation for any loss or damage suffered by any innocent person as a result of the reprehensible conduct of the councillor; and

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- (f) make such further or other orders (including orders for costs or for the payment of the remuneration of a referee or inspector appointed under section 32) as the Court thinks proper.
- (4) The High Court shall not, in proceedings under this section, make an order under subsection (3)(a), (d), (e) or (f) for the payment of any sum or the handing over of any property by any person not a party to those proceedings unless and until the Court has given to such person an opportunity of being heard (whether in person or by counsel) and has taken into consideration any representation made to it by or on behalf of such person.
- (5) In this section—
 “gain” includes any form of enrichment, benefit or advantage whatsoever which may have accrued to or been acquired by or which may accrue to or be acquired by a councillor or any other person whatsoever;
 “relevant transaction” includes any contract, grant, subsidy, licence, right, permission, use, authority, privilege, benefit, certificate, consent, approval, decision or determination made, granted, paid, issued or given or refused by or on behalf of any council or any person acting on behalf of any council.
- (6) A reference in this section to a person being a councillor shall include a reference to his sitting or voting or otherwise acting as a councillor.

F8 1965 c.13 (NI), 1970 c.9 (NI), 1972 NI 14, 1981 NI 3

Modifications etc. (not altering text)

- C3** Ss. 28-33 applied (with modifications) (1.4.2012) by [Justice Act \(Northern Ireland\) 2011 \(c. 24\)](#), s. 111(3), [Sch. 2 para. 20](#) (with s. 106(4)); S.R. 2012/142, art. 2(a)
- C4** Ss. 28-33 applied (with modifications) (1.4.2012) by [Justice Act \(Northern Ireland\) 2011 \(c. 24\)](#), s. 111(3), [Sch. 1 para. 20](#) (with s. 106(4)); S.R. 2012/142, art. 2(a)
- C11** Ss. 23-27, 31, 48, 123, 126, 127 applied (with modifications) (1.7.2006) by [Fire and Rescue Services \(Northern Ireland\) Order 2006 \(S.I. 2006/1254 \(N.I. 9\)\)](#), arts. 1(3), 3(3), [Sch. 1 para. 12](#) (with arts. 49, 62); S.R. 2006/257, [art. 2\(a\)\(c\)](#)
- C12** S. 31 applied (with modifications) (1.4.2009) by [Health and Social Care \(Reform\) Act \(Northern Ireland\) 2009 \(c. 1\)](#), ss. 7(2), 34(3), [Sch. 1 para. 11\(1\)](#) (with Sch. 1 para. 11(2)); S.R. 2009/114, [art. 2](#)
- C13** S. 31 applied (with modifications) (1.4.2009) by [Health and Social Care \(Reform\) Act \(Northern Ireland\) 2009 \(c. 1\)](#), ss. 7(2), 34(3), [Sch. 2 para. 11\(1\)](#) (with Sch. 2 para. 11(2)); S.R. 2009/114, [art. 2](#)

32 Ancillary powers of the High Court in exercising jurisdiction under section 31.

- ^{F9}(1) Without prejudice to anything contained in section 31, a judge of the High Court exercising jurisdiction under that section may—
- (a) refer to a special referee for inquiry or report any question arising in the exercise of such jurisdiction;
 - (b) appoint one or more inspectors to investigate and report on any relevant transaction within the meaning of section 31 or the affairs of any council or, in connection with any such transaction, the membership of any company or otherwise with respect to a company for the purposes of determining the true persons who are or have been financially interested in the company or able to control or materially to influence the policy of the company.

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- (2) A referee or inspector holding any inquiry or conducting any investigation under subsection (1) may for the purposes thereof—
 - (a) by notice require any person to attend at the time and place set forth in the notice to give evidence or to produce any books or documents in his custody or under his control which appear to relate to any matter in question at the inquiry or investigation;
 - (b) by notice require any person to furnish within such reasonable period as is specified in the notice such information relating to any such matter as the person holding the inquiry or conducting the investigation thinks fit and as the person so required is able to furnish; and
 - (c) administer oaths and examine witnesses on oath.
- (3) Any person who refuses or fails to attend in obedience to a notice under subsection (2) or to give evidence, or who wilfully alters, suppresses, conceals, destroys or refuses or fails to produce any book or document which he is required by any such notice to produce or who refuses or fails to furnish any information which he is required to furnish under subsection (2)(b) shall be deemed to be guilty of contempt of the High Court.
- (4) Without prejudice to subsection (2), an inspector appointed under subsection (1)(b) to investigate the affairs of a council or the membership of a company may exercise in relation to that council or company all the powers of^{F10} an inspector appointed under section 431 of the Companies Act 1985; and accordingly sections 433 to 436 of that Act (powers etc) apply for the purposes of an investigation by an inspector appointed under subsection (1)(b) above as they apply for the purposes of an investigation by an inspector appointed under section 431 of that Act.]
- (5) The finding or report of a referee or inspector acting under subsection (1) may be accepted and acted upon by a judge of the High Court either in whole or in part.
- (6) The remuneration of a referee or inspector under this section shall be determined by a judge of the High Court.
- (7) Where in the course of proceedings under section 31 it appears to the High Court that the conduct of any councillor or officer of a council, other than the councillor against whom those proceedings were instituted, may have been reprehensible within the meaning of that section, the Court may direct that such councillor or officer be made a party to the proceedings and that a notice be served on him informing him that he has been made such a party and that it appears to the Court that his conduct may have been reprehensible as aforesaid and requiring him—
 - (a) to furnish to the Court such documents or information in his possession or control as may relate to any relevant transaction within the meaning of section 31 or to any matter arising out of such a transaction or as may be specified in the notice; and
 - (b) to attend and be examined on oath before the Court regarding any such transaction or matter.
- (8) If, upon such examination and after giving such councillor or officer an opportunity of being heard (whether in person or by counsel), the High Court is satisfied that such councillor or officer has been guilty of conduct which was reprehensible within the meaning of section 31, the Court may make a declaration accordingly and may also make any order which could have been made if proceedings had been instituted against

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that councillor under section 31 or against that officer under that section as applied by section 46(9).

- (9) A reference in this section to a person being a councillor shall include a reference to his sitting or voting or otherwise acting as a councillor.

- F9** 1965 c.13 (NI), 1970 c.9 (NI), 1972 NI 14, 1981 NI 3
F10 Words in s. 32(4) substituted (1.10.2009) by Companies Act 2006 (Consequential Amendments, Transitional Provisions and Savings) Order 2009 (S.I. 2009/1941), art. 2(1), **Sch. 1 para. 25** (with art. 10)

Modifications etc. (not altering text)

- C3** Ss. 28-33 applied (with modifications) (1.4.2012) by Justice Act (Northern Ireland) 2011 (c. 24), s. 111(3), **Sch. 2 para. 20** (with s. 106(4)); S.R. 2012/142, art. 2(a)
C4 Ss. 28-33 applied (with modifications) (1.4.2012) by Justice Act (Northern Ireland) 2011 (c. 24), s. 111(3), **Sch. 1 para. 20** (with s. 106(4)); S.R. 2012/142, art. 2(a)
C14 S. 32 applied (with modifications) (1.4.2009) by Health and Social Care (Reform) Act (Northern Ireland) 2009 (c. 1), ss. 7(2), 34(3), **Sch. 1 para. 11(1)** (with Sch. 1 para. 11(2)); S.R. 2009/114, **art. 2**
C15 S. 32 applied (with modifications) (1.4.2009) by Health and Social Care (Reform) Act (Northern Ireland) 2009 (c. 1), ss. 7(2), 34(3), **Sch. 2 para. 11(1)** (with Sch. 2 para. 11(2)); S.R. 2009/114, **art. 2**

33 Time limit for proceedings under sections 28, 30 and 31.

- ^{F11}(1) Notwithstanding any other transferred provision, a summary prosecution for an offence under section 28 or 30 may be commenced and, subject to subsection (2), an application for an order under section 31 may be brought, at any time within the period of one year from the date on which evidence, sufficient in the opinion of the Attorney-General to justify that prosecution or, as the case may be, that application, comes to the knowledge of the Attorney-General.
- (2) An application for an order under section 31 in respect of a relevant transaction within the meaning of that section shall not be brought after the expiration of twelve years from the date of that transaction.
- (3) For the purposes of subsection (1), a certificate purporting to be signed by the Attorney-General as to the date on which the evidence referred to in that subsection came to his knowledge shall be evidence of that date.

- F11** 1965 c.13 (NI), 1970 c.9 (NI), 1972 NI 14, 1981 NI 3

Modifications etc. (not altering text)

- C3** Ss. 28-33 applied (with modifications) (1.4.2012) by Justice Act (Northern Ireland) 2011 (c. 24), s. 111(3), **Sch. 2 para. 20** (with s. 106(4)); S.R. 2012/142, art. 2(a)
C4 Ss. 28-33 applied (with modifications) (1.4.2012) by Justice Act (Northern Ireland) 2011 (c. 24), s. 111(3), **Sch. 1 para. 20** (with s. 106(4)); S.R. 2012/142, art. 2(a)
C16 S. 33 applied (with modifications) (1.4.2009) by Health and Social Care (Reform) Act (Northern Ireland) 2009 (c. 1), ss. 7(2), 34(3), **Sch. 1 para. 11(1)** (with Sch. 1 para. 11(2)); S.R. 2009/114, **art. 2**
C17 S. 33 applied (with modifications) (1.4.2009) by Health and Social Care (Reform) Act (Northern Ireland) 2009 (c. 1), ss. 7(2), 34(3), **Sch. 2 para. 11(1)** (with Sch. 2 para. 11(2)); S.R. 2009/114, **art. 2**

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