



Local Government Act (Northern Ireland) 1972

1972 CHAPTER 9

PART VIII

LEGAL AND ADMINISTRATIVE

LEGAL PROCEEDINGS

116 Power to prosecute or defend.

Where a council considers it expedient for the promotion or protection of the interests—

- (a) of the council;
- (b) of its district or of any part of its district;
- (c) of the inhabitants of its district or of any part of its district;

it may prosecute or defend any legal proceedings.

117 Appearance in legal proceedings.

A council may authorise any officer of the council, either in respect of matters of any class or in respect of any particular matter, to institute on its behalf proceedings before any court of summary jurisdiction or to appear on its behalf before a court of summary jurisdiction in any proceedings instituted by the council or on its behalf, and any officer so authorised shall be entitled to conduct any such proceedings on behalf of the council although he is not a practising solicitor.

Status: Point in time view as at 01/01/2006.

Changes to legislation: There are currently no known outstanding effects for the Local Government Act (Northern Ireland) 1972, PART VIII. (See end of Document for details)

118 Name of council need not be proved.

- (1) Subject to subsection (2), in any proceedings instituted by or against a council it shall not be necessary to prove the corporate name of the council or the constitution or limits of its district.
- (2) Nothing in subsection (1) shall prejudice the right of a party to any such proceedings to take or avail himself of any objection which he might have taken or availed himself of if that subsection had not been passed.

119 Evidence of resolutions, etc.

Save as otherwise provided in any statutory provision, production of a copy of or of any part of—

- (a) any minute of a meeting of a council or of a committee of a council; or
- (b) any resolution passed by a council or by a committee of a council; or
- (c) any standing orders made by a council;

upon which is endorsed a certificate purporting to be signed by the clerk of the council stating that—

- (i) the copy of, or of part of, the minute of the meeting is a true copy; or
- (ii) the resolution was passed at a specified meeting of the council or, as the case may be, the committee, or was so passed as a special resolution; or
- (iii) the standing orders were made in accordance with any statutory provision applicable thereto;

shall be evidence of the facts stated in the certificate and that in the case of a resolution passed by a committee, the committee had power to pass such a resolution, without proof of the handwriting or official position of any person purporting to sign a certificate in pursuance of this section.

ADMINISTRATIVE PROVISIONS

120 The seal.

- (1) Every council shall provide for the safe custody of its common seal (in this section referred to as “the seal”), which shall be used only—
 - (a) under the authority of a resolution of the council, or
 - (b) in accordance with standing orders of the council.
- (2) Every instrument to which the seal of a council is affixed shall be signed by a member of the council and by the clerk of the council or some other person appointed by the council for the purpose.
- (3) An instrument which has been sealed with the seal of a council and signed as mentioned in subsection (2) shall be held to be validly executed whether attested by witnesses or not.
- (4) A person entering into a transaction with a council shall not be bound to inquire whether authority to affix the seal has been given in accordance with subsection (1)(a) or whether the seal has been used in accordance with standing orders as mentioned in subsection (1)(b); and all instruments executed by a council under its seal if otherwise

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valid shall have full force and effect notwithstanding that such authority has not been given or that the use of the seal is not in accordance with standing orders.

121 Inspection of documents.

- (1) The minutes of the proceedings of a council or any committee of a council shall be open to inspection by any local elector for the district of the council, and any such elector may make a copy of, or of any part of, the minutes.
- (2) The accounts of a council shall be open to inspection by any member of the council, and any such member may make a copy of, or of any part of, the accounts.
- ^{F1}(3) The statements of accounts of a council, and any report made by an auditor on the accounts, shall be open to inspection by any local elector for the district of the council,^{F2} or by any person liable for rates payable in respect of any hereditament situated in the district which is used wholly or mainly for the purposes of a business whether or not carried on for profit, and any such elector or person] may make a copy of, or of any part of, the statements and report, or require, on payment of a reasonable sum for each copy, to be supplied with such a copy.
- (4) A document directed by this section to be open to inspection shall be so open at all reasonable hours, and,^{F2} . . . without payment.
- (5) If a person having the custody of any document mentioned in this section—
 - (a) knowingly obstructs any person entitled to inspect the document or to make a copy of, or of any part of, the document in inspecting the document or making a copy; or
 - (b) refuses to supply copies to any person entitled to obtain copies;he shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding^{F3} level 2 on the standard scale].

F1 prosp. rep. by [2005 NI 18](#)

F2 [1992 NI 6](#)

F3 [1984 NI 3](#)

122 Public notices.

Save as otherwise expressly provided, a public notice required to be given by a council shall be given—

- (a) by—
 - (i) exhibiting the notice in some conspicuous place on or near the outer door of the offices of the council; and
 - (ii) posting the notice in some conspicuous place or places within the district of the council; or
- (b) in such other manner as appears to the council to be desirable for giving publicity to the notice.

123 Penalty for destroying notices.

^{F4} A person who wilfully destroys, tampers with, pulls down, injures or defaces—

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- (a) any board on or to which any bye-law, notice or other matter put up by the authority of the Ministry or of a council is inscribed or affixed; or
- (b) any advertisement, placard, bill or notice put up by or under the direction of a council;

shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding^[F5] level 3 on the standard scale].

F4 1965 c.13 (NI); 1984 NI 11

F5 1984 NI 3

Modifications etc. (not altering text)

C1 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\(a\)\(c\)](#)

124 Authentication of documents.

- (1) Any notice, order or other document which a council is authorised or required by any statutory provision to give, make or issue may be signed on behalf of the council by the clerk of the council or by any other officer of the council authorised by the council to sign documents of the particular kind or the particular document, as the case may be, and subject to any statutory provision, any such notice, order or other document may be withdrawn by a notice, order or other document similarly authenticated.
- (2) Any document purporting to bear the signature of the clerk of a council or of any officer stated therein to be duly authorised by the council to sign such a document or the particular document, as the case may be, shall be deemed, until the contrary is proved, to have been duly given, made or issued by the authority of the council.
- (3) In subsection (2) “signature” includes a facsimile of a signature by whatever process reproduced.
- (4) Where a statutory provision makes in relation to any document or class of document, provision with respect to the matters dealt with by subsection (1) or (2), that subsection shall not apply in relation to that document or class of document.

125 Custody of records.

Subject to any directions given by the council, the clerk of a council shall have the charge and custody of and be responsible for all charters, deeds, records and other documents belonging to the council.

126 Compensation for damage by council.

- (1) A council shall make compensation to any person who has sustained damage, for which compensation is not payable under any other statutory provision, by reason of the exercise by the council of any of its functions in relation to a matter as to which he has not himself been in default.
- (2) Subsections (2) to (9) of section 38 of the Mineral Development Act (Northern Ireland) 1969 shall have effect for the purposes of any claim for compensation under this

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section as if, in those subsections, any reference to that section, that Act or the Ministry of Commerce were a reference to, respectively, this section, this Act and the council.

Modifications etc. (not altering text)

- C2** 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)**

SUPERVISION OF COUNCILS

127 Information, reports and returns.

A council shall—

- (a) make such reports and returns; and
- (b) give such information with respect to the exercise of its functions; to the Ministry, within such period, as the Ministry directs.

Modifications etc. (not altering text)

- C3** 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)**

128 Inquiries and investigations.

The Ministry may cause such local or other inquiries to be held or investigations to be made as the Ministry thinks expedient for the purposes of this Act or in connection with any matter concerning the administration of any transferred provision relating to the functions of any council or any committee or sub-committee of a council.

129 Default of council.

- (1) If the Ministry,^{F6} . . . is satisfied that a council has failed to discharge any of its functions, the Ministry may make an order—
 - (a) declaring the council to be in default; and
 - (b) directing it for the purpose of remedying the default, to take such action, within such period, as is specified in the order.
- (2) If an order under subsection (1) is not complied with, the Ministry may by order empower an officer of the Ministry to exercise, or procure the exercise of, the function in question.
- (3) Any costs incurred by the Ministry or an officer of the Ministry under an order made under subsection (2) shall, in the first instance, be defrayed as expenses of the Ministry, but—
 - (a) the amount of those costs as certified by the Ministry shall, on demand, be paid to the Ministry by the council; and

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- (b) any sum demanded under paragraph (a) shall be a debt recoverable summarily by the Ministry from the council.

F6 1992 NI 6

JURISDICTION OF HIGH COURT

130 Exercise of jurisdiction of High Court.

Subject to rules of court, any jurisdiction conferred on the High Court by this Act shall be exercisable by a single judge of the High Court, and, for all purposes of or incidental to the exercise of that jurisdiction and the amendment and enforcement of any orders made thereunder, a judge of the High Court may exercise all the power, authority and jurisdiction vested in or capable of being exercised by the High Court in relation to the hearing or determination of any civil cause or matter within the jurisdiction of the Court.

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