



Elected Authorities (Northern Ireland) Act 1989

CHAPTER 3

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Elected Authorities (Northern Ireland) Act 1989

1989 CHAPTER 3

An Act to amend the law relating to the franchise at elections to district councils in Northern Ireland, to make provision in relation to a declaration against terrorism to be made by candidates at such elections and at elections to the Northern Ireland Assembly and by persons co-opted as members of district councils, to amend sections 3 and 4 of the Local Government Act (Northern Ireland) 1972, and for connected purposes.

[15th March 1989]

BE IT ENACTED by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

Franchise for local elections

1.—(1) Subject to subsections (2) and (3) below, a person is entitled to vote as an elector at a local election in any district electoral area if—

Local electors in Northern Ireland.

- (a) he is resident there on the qualifying date and was resident in Northern Ireland during the whole of the period of three months ending on that date,
- (b) on that date and on the date of the poll—
 - (i) he is not subject to any legal incapacity to vote (age apart), and
 - (ii) he is either a Commonwealth citizen or a citizen of the Republic of Ireland, and
- (c) he is of the age of eighteen years or over on the date of the poll.

(2) A person is not entitled to vote as an elector in any district electoral area unless registered there in the register of local electors to be used at the election.

- (3) A person is not entitled to vote as an elector—
- (a) more than once in the same district electoral area at any local election, or
 - (b) in more than one district electoral area at a local general election for any district.

(4) For the purposes of this section, a person does not attain the age of eighteen years until the beginning of the relevant anniversary of the day of his birth.

Application of provisions of Representation of the People Act 1983 to local elections in Northern Ireland.
1983 c. 2.

2.—(1) Notwithstanding section 205(2) of the Representation of the People Act 1983 (Act does not affect law relating to local government in Northern Ireland), the provisions of that Act specified in Part I of Schedule 1 to this Act shall have effect in Northern Ireland for the purposes of local elections (as well as parliamentary elections) but, in the case of local elections, with the modifications specified in Part II of that Schedule.

(2) In the case of local elections, it is immaterial for the purposes of section 3 of that Act (disfranchisement of convicted persons) as applied by this section whether the conviction or sentence was before or after the passing of this Act.

Disqualification for breach of declaration against terrorism or in consequence of imprisonment or detention

Declaration against terrorism: local elections.
1962 c. 14 (N.I.).

3.—(1) A person is not validly nominated as a candidate at a local election unless his consent to nomination includes a declaration in the form set out in Part I of Schedule 2 to this Act.

(2) In Schedule 5 to the Electoral Law Act (Northern Ireland) 1962, in the Appendix of Forms, in the form headed “Candidate’s consent to nomination”, after the paragraph beginning “I further declare” there is inserted the paragraph set out in Part I of Schedule 2 to this Act.

Declaration against terrorism: councillors co-opted to fill casual vacancies.

4.—(1) A person is not eligible to be chosen by a district council to fill a casual vacancy in the council unless he has made, and served on the clerk of the council, a declaration in the form set out in Part II of Schedule 2 to this Act.

(2) In section 11(4B) of the Electoral Law Act (Northern Ireland) 1962 (procedure for filling casual vacancy) in paragraph (c) for the words from “any person” to “meeting” there is substituted—
“any person who—

- (i) is qualified to be a member of the council;
- (ii) has made, and served on the clerk of the council, a declaration in the form set out in Part II of Schedule 2 to the Elected Authorities (Northern Ireland) Act 1989; and
- (iii) is not objected to by any member of the council present at the meeting;”.

5. A person is not validly nominated as a candidate at an election to the Northern Ireland Assembly unless his consent to nomination includes a declaration in the form set out in Part I of Schedule 2 to this Act.

Declaration
against
terrorism:
Assembly
elections.

6.—(1) A person who has made a declaration required for the purposes of section 3, 4 or 5 of this Act in connection with a local election, an election to the Northern Ireland Assembly or the filling of a casual vacancy in a district council acts in breach of the terms of the declaration if at any time after he is declared to be elected at that election or is chosen to fill that vacancy and while he remains a member of the district council or of the Assembly—

Breach of terms
of declaration.

- (a) he expresses support for or approval of—
 - (i) a proscribed organisation, or
 - (ii) acts of terrorism (that is to say, violence for political ends) connected with the affairs of Northern Ireland, and
- (b) he does so—
 - (i) at a public meeting, or
 - (ii) knowing, or in such circumstances that he can reasonably be expected to know, that the fact that he has made that expression of support or approval is likely to become known to the public.

(2) For the purposes of subsection (1) above a person shall be taken to express support for, or approval of, any matter if his words or actions could reasonably be understood as expressing support for, or approval of, it.

(3) It is immaterial for the purposes of subsection (1) above—

- (a) whether the expression of support or approval is made by spoken or written words, by the display of written matter or by other behaviour, and
- (b) whether it is made in the United Kingdom or elsewhere.

(4) This section has effect notwithstanding section 26(1) of the Northern Ireland Constitution Act 1973 (privileges of the Northern Ireland Assembly).

1973 c. 36.

(5) In this section—

“proscribed organisation” has the same meaning as in section 21 of the Northern Ireland (Emergency Provisions) Act 1978,

1978 c. 5.

“public meeting” includes—

- (a) any meeting in a public place,
- (b) any meeting which the public or any section of the public is permitted to attend, whether on payment or otherwise, and
- (c) any meeting of the Northern Ireland Assembly, a district council or any committee or sub-committee of the Assembly or such a council (whether or not a meeting which the public is permitted to attend), and

“public place” means—

- (a) any highway, and

(b) any place to which at the material time the public or any section of the public has access, on payment or otherwise, as of right or by virtue of express or implied permission.

Application to
the High Court.

7.—(1) Any one or more of the persons specified in subsection (2) below may apply to the High Court for a determination that a person has acted in breach of the terms of a declaration against terrorism made by him.

(2) The persons referred to in subsection (1) above are—

(a) in relation to a member of a district council—

- (i) the district council,
- (ii) any person who would be entitled to vote at an election to that council held on the date of the application, and
- (iii) any other member of that council, and

(b) in relation to a member of the Northern Ireland Assembly—

- (i) any person who would be entitled to vote at an election to the Assembly held in the member's constituency on the date of the application, and
- (ii) any other member of the Assembly.

(3) For the purposes of this section, a person who was nominated—

- (a) after the passing of this Act as a candidate for election to the office of member of a district council, or
- (b) after the coming into force of section 5 of this Act as a candidate for election to the office of member of the Northern Ireland Assembly,

shall be conclusively presumed to have made a declaration in the form set out in Part I of Schedule 2 to this Act at the time of the nomination.

(4) For the purposes of this section, a person who was chosen by a district council after the passing of this Act to fill a casual vacancy in the council shall be conclusively presumed to have made a declaration in the form set out in Part II of Schedule 2 of this Act in relation to that vacancy before he was so chosen.

(5) Where on an application under this section the High Court is satisfied that the person to whom the application relates has acted in breach of the terms of a declaration against terrorism made by him, the court may make a determination accordingly.

(6) In this section—

- (a) “declaration against terrorism” means a declaration required for the purposes of section 3, 4 or 5 of this Act, and
- (b) references to acting in breach of the terms of such a declaration shall be construed in accordance with section 6 of this Act.

Disqualification
in consequence
of breach of
declaration.
1972 c. 9 (N.I.).

8.—(1) In section 4(1) of the Local Government Act (Northern Ireland) 1972 (disqualification for being elected or being a member of a district council) at the end of paragraph (d) there is inserted—

“(dd) within the five years immediately preceding the day of his election or at any time subsequent to that day, a determination has been made by the High Court that he

has acted in breach of the terms of a declaration against terrorism as defined in section 7 of the Elected Authorities (Northern Ireland) Act 1989; or”.

(2) In section 3 of the Northern Ireland Assembly Act 1973 after subsection (1) there is inserted— 1973 c. 17.

“(1A) A person who is determined by the High Court to have acted in breach of the terms of a declaration against terrorism as defined in section 7 of the Elected Authorities (Northern Ireland) Act 1989 is disqualified for membership of the Assembly during the period of five years beginning with the date of the determination.”.

9.—(1) In section 4(1) of the Local Government Act (Northern Ireland) 1972, at the end of paragraph (c) there is inserted— Disqualification for membership of district council in consequence of imprisonment or detention. 1972 c. 9 (N.I.).

“(cc) he has been found guilty of one or more offences by any court in Northern Ireland or elsewhere in the British Islands and sentenced or ordered to be imprisoned or detained indefinitely or for three months or more without the option of a fine and either of the periods mentioned in subsection (3) is current; or”.

(2) At the end of that section there is added—

“(3) The periods referred to in subsection (1)(cc) are—

- (a) the period of his actual imprisonment or detention (including any time when he is unlawfully at large), and
- (b) the period of five years beginning with his discharge.

(4) For the purposes of subsections (1)(cc) and (3)—

- (a) consecutive terms of imprisonment or detention imposed in respect of offences of which the offender was found guilty in the same proceedings are to be treated as a single term,
- (b) the release of an offender on licence or in pursuance of a grant of remission is to be treated as his discharge, whether or not his release is subject to conditions, but if, in respect of the same offence or offences, he is required to return to prison or detention for a further period the reference in subsection (3) to his discharge includes a reference to his discharge in respect of that further period, and
- (c) the reference in subsection (1)(cc) to a sentence or order does not, except in a case where the sentence or order does take effect for any term, include one that is ordered not to take effect unless the conditions specified in the order are fulfilled and, in such a case, the original sentence or order is to be treated as a sentence or order of imprisonment or detention for that term.”

(3) In subsection (1)(d) of that section the words from “been convicted” to “fine or” are omitted.

(4) Subsection (1)(cc) of that section applies to any sentence or order, whether passed or made before or after the passing of this Act, except in a case where the offender has ceased to be imprisoned or detained (or unlawfully at large) before the passing of this Act; and subsection (3) above does not affect the application of subsection (1)(d) of that section in such a case.

(5) An offender who would otherwise fall within that case does not do so if, after the passing of this Act, he is required, in respect of the same offence or offences, to return to prison or detention for a further period, but the earlier period of imprisonment or detention is to be disregarded in his case for the purposes of subsections (3) and (4) of that section.

General

Interpretation.

10.—(1) In this Act—

1954 c. 33 (N.I.).

“district council” has the meaning given by section 44 of the Interpretation Act (Northern Ireland) 1954,

“legal incapacity” includes (in addition to any incapacity by virtue of age or of any subsisting provision of the common law) any disqualification imposed by any statutory provision,

1962 c. 14 (N.I.).

“local election”, “local elector” and “local general election” have the same meaning as in the Electoral Law Act (Northern Ireland) 1962, and

“statutory provision” has the meaning given by section 1(f) of the Interpretation Act (Northern Ireland) 1954.

1983 c. 2.

(2) Any reference in any statutory provision to any provision repealed or revoked by this Act is to be read as a reference to the corresponding provision of this Act or of the Representation of the People Act 1983 as applied by section 2 of this Act.

Minor and consequential amendments and repeals.

11.—(1) Section 21(1) of the Interpretation Act (Northern Ireland) 1954 (rules regulating procedure of courts, etc.) shall have effect as if the jurisdiction conferred by section 56(1) of the Representation of the People Act 1983 as applied by section 2 of this Act were conferred by an enactment within the meaning of the Interpretation Act (Northern Ireland) 1954.

(2) In section 14B of the Electoral Law Act (Northern Ireland) 1962, for the words from “travelling”, where it first occurs, to the end there is substituted “and to persons appointed, or to whom functions are delegated, under section 14A travelling and subsistence allowances at such rates as the Secretary of State, with the approval of the Treasury, may determine”.

(3) In section 29(8) of the Electoral Law Act (Northern Ireland) 1962, for “any provision of section thirty-one” there is substituted “section 1(3) of the Elected Authorities (Northern Ireland) Act 1989”.

(4) In section 130(1) of the Electoral Law Act (Northern Ireland) 1962—

(a) for the definition of “legal incapacity” there is substituted—

“legal incapacity” has the same meaning as in the Elected Authorities (Northern Ireland) Act 1989”, and

- (b) for the definition of “polling district” there is substituted—
 “‘polling district’ means a ward”.
- (5) In section 3(1) of the Local Government Act (Northern Ireland) 1972, for the words from “a person to whom” to “applies” there is substituted “a citizen of the Republic of Ireland”. 1972 c. 9 (N.I.).
- (6) In section 148(1) of the Local Government Act (Northern Ireland) 1972, for the definition of “local elector” there is substituted—
 “‘local elector’ has the same meaning as in the Electoral Law Act (Northern Ireland) 1962”, 1962 c. 14 (N.I.).
- (7) In Article 7(7) of the Electoral Law (Northern Ireland) Order 1972, for “those expenses” there is substituted “all expenses properly incurred in connection with the registration of local electors”. S.I.1972/1264 (N.I. 13).
- (8) In section 3 of the Representation of the People Act 1985— 1985 c. 50.
 (a) in subsection (7)(b), the words from “and, in Northern Ireland” to the end are repealed, and
 (b) in subsection (8), for “in accordance with the Electoral Law Act (Northern Ireland) 1962” there is substituted “for the purposes of local elections”.
- (9) The Northern Ireland legislation specified in Part I of Schedule 3 to this Act and the subordinate legislation specified in Part II of that Schedule is repealed or revoked to the extent specified in the third column.
- 12.—(1) There shall be paid out of money provided by Parliament— Expenses.
 (a) any increase attributable to the provisions of this Act in the sums so payable under any other enactment, and
 (b) any expenses incurred under section 14A(4) or 14B of the Electoral Law Act (Northern Ireland) 1962.
- (2) There shall be paid into the Consolidated Fund any increase attributable to the provisions of this Act in the sums so payable under any other enactment.
- 13.—(1) This Act may be cited as the Elected Authorities (Northern Ireland) Act 1989. Short title, commencement, transitional provision and extent.
- (2) The following provisions of this Act—
 (a) section 1(2) and Schedule 1, except so far as that Schedule relates to sections 3 and 4 of the Representation of the People Act 1983, and
 (b) sections 5 and 8(2), 1983 c. 2.
- shall come into force on such day as the Secretary of State may by order made by statutory instrument appoint, and different days may be appointed for different provisions and for different purposes.
- (3) Subsection (4) below applies to any local election held—
 (a) on or after the day which, under section 11 of the Electoral Law Act (Northern Ireland) 1962, is the election day in 1989, but
 (b) before the earliest day on which the first register of local electors prepared under the Representation of the People Act 1983 as applied by section 2 of this Act would be used for an election.

(4) A person is not entitled to vote as an elector at a local election to which this subsection applies in any district electoral area unless—

(a) he is registered there in the register of parliamentary electors prepared under the Representation of the People Acts and the date by reference to which it was prepared is the qualifying date for the local election, or

1962 c. 14 (N.I.).

(b) he is a peer and is registered there in the register of electors prepared under the Electoral Law Act (Northern Ireland) 1962 by reference to the qualifying date for the local election.

1983 c. 2.

(5) For the purposes of a local election to which subsection (4) above applies, section 49(2) to (5) and 50 of the Representation of the People Act 1983 shall have effect—

(a) with the modifications specified in Part II of Schedule 1 to this Act, except paragraph 4, and

(b) as if references to the register of parliamentary electors or the register of local government electors and references to persons registered as parliamentary or local government electors were references respectively to the register mentioned in paragraph (a) or, in the case of peers, paragraph (b) of subsection (4) above and to persons registered in that register.

(6) Nothing in this Act affects the law relating to registration for local elections, in its application to peers, for the purposes of a local election to which subsection (4) above applies.

(7) This Act, except section 11(8), extends to Northern Ireland only.

SCHEDULES

SCHEDULE 1

Section 2.

APPLICATION AND MODIFICATION OF REPRESENTATION OF THE PEOPLE ACT 1983

PART I

PROVISIONS APPLIED

- Section 3(1) and (2) (disfranchisement of offenders in prison, etc.).
- Section 4(2) (qualifying date).
- Sections 5 to 7 (residence and patient's declarations).
- Sections 9 to 13 (registers of electors, right to be registered and publication of registers).
- Sections 14 to 17 (service qualifications and service declarations).
- Sections 49 and 50 (effect of registers and of misdescription).
- Section 53 and, in Schedule 2, paragraphs 1(2), 3, 4 to 11A and 13 (regulations as to registration).
- Section 54(2) to (4) (expenses of registration).
- Section 56(1) and (3) to (5) (registration appeals).
- Section 59 (supplemental provisions as to members of forces, etc.).
- Section 62 (offences as to declarations).
- Section 201 (regulations) and, in section 202(1), the definition of "prescribed".

PART II

MODIFICATIONS

General

1. References to local government elections are to be read as references to local elections.
2. References to section 2 (local government electors in Great Britain) are to be read as references to section 1 of this Act and references to Part I (Parliamentary and local government franchise and its exercise) include section 1 of this Act.
3. References to the registration officer are to be read as references to the Chief Electoral Officer for Northern Ireland.
4. References to local government electors are to be read as references to local electors.
5. References to legal incapacity are to legal incapacity within the meaning of this Act.
6. References to any other provision mentioned in Part I of this Schedule are to that provision as modified by this Part.

Specific

7. In section 4(2), for "a parliamentary" there is substituted "an".
8. In section 9, for subsection (1)(b) there is substituted—
 “(b) a register of local electors for each district.”

- SCH. 1
9. In section 12, the reference in subsection (2)(b) to any enactment includes an enactment comprised in Northern Ireland legislation.
10. In section 13—
- (a) in subsection (1) “or, in Northern Ireland, of parliamentary electors” is omitted,
 - (b) in subsection (2) “parliamentary” is omitted, and
 - (c) in subsection (4) the reference to the Representation of the People Acts includes section 1 of this Act.
11. In section 14, the reference in subsection (2) to section 1(2) includes section 1(1)(a) of this Act.
12. In section 49—
- (a) in subsection (2), in paragraph (b) the reference to a local government area is to be read as a reference to a district and at the end of that subsection there is inserted—
 - “(c) whether or not a person registered as an elector in a district was during the whole of the period of three months ending on the qualifying date resident in Northern Ireland”, and
 - (b) in subsection (5) “or entered in the list of proxies” is omitted.
13. In section 50, for paragraph (c) there is substituted—
- “(c) in any list, notice or other document required for the purposes of this Part of this Act”.
14. In section 53—
- (a) in subsection (1)(a) the words from “or any” to the end are omitted,
 - (b) in subsection (1)(b) for the words from “the electors lists” to “above” there is substituted “and the electors lists”, and
 - (c) in subsection (1)(c) “or to voting by post or proxy” is omitted.
15. In section 54, in subsections (3) and (4) paragraph (a) is omitted.
16. In section 56—
- (a) subsection (1)(b), and
 - (b) in subsection (4) the words from the beginning to “and”,
- are omitted.
17. In section 59, in subsection (3)(a) the words from “and of” to the end are omitted.
18. In Schedule 2—
- (a) in paragraph 5(2) “or with his appointment as a proxy”,
 - (b) paragraph 5A, and
 - (c) in paragraph 13(1)(a) “or paragraph 2”,
- are omitted.

SCHEDULE 2
DECLARATION AGAINST TERRORISM

Sections 3, 4
and 5.

PART I

FORM FOR INCLUSION IN CONSENT TO NOMINATION

I declare that, if elected, I will not by word or deed express support for or approval of—

- (a) any organisation that is for the time being a proscribed organisation specified in Schedule 2 to the Northern Ireland (Emergency Provisions) Act 1978; or
- (b) acts of terrorism (that is to say, violence for political ends) connected with the affairs of Northern Ireland.

PART II

FORM FOR USE IN CASE OF DISTRICT COUNCILLOR CHOSEN TO FILL CASUAL
VACANCY

I, (*name in full*), of (*home address in full*) declare that, if I am chosen to be a councillor for the District of (*name of district*), I will not by word or deed express support for or approval of—

- (a) any organisation that is for the time being a proscribed organisation specified in Schedule 2 to the Northern Ireland (Emergency Provisions) Act 1978; or
- (b) acts of terrorism (that is to say, violence for political ends) connected with the affairs of Northern Ireland.

Signed _____

Date _____

Section 11.

SCHEDULE 3
REPEALS AND REVOCATIONS
PART I
NORTHERN IRELAND LEGISLATION REPEALED

Chapter	Short title	Extent of repeal
1962 c. 14 (N.I.)	Electoral Law Act (Northern Ireland) 1962.	Part I. Section 14(4)(b). In sections 14A(4) and 14B the words "out of moneys hereafter appropriated for the purpose of meeting such expenses". Section 15(1). Section 21(5), (6), (9) and (10). Section 28(1) to (6). Section 29(1) and (6). Sections 31 and 32. Section 121. In section 130(1), the definitions of "publication year", "Registration Rules" and "registration year". Schedule 1. Schedule 3. In Schedule 9, paragraph 24, in paragraph 25 the words "or the registration of electors" and paragraph 33.
1968 c. 20 (N.I.)	Electoral Law Act (Northern Ireland) 1968.	Sections 3 and 4. Schedule 2.
1969 c. 26 (N.I.)	Electoral Law Act (Northern Ireland) 1969.	In section 2, in subsection (1) the words from "and if" to "qualifying date", and subsections (2) and (4). In Schedule 1, all the entries except those relating to sections 67 and 130(1) of, and Schedules 7 and 9 to, the Electoral Law Act (Northern Ireland) 1962.
1971 c. 4 (N.I.)	Electoral Law Act (Northern Ireland) 1971.	Section 2(1)(c) and (d)(i) and (2).
S.I.1972/1264 (N.I.13)	Electoral Law (Northern Ireland) Order 1972.	Article 7(1) to (6) and, in Article 7(7), the words from the beginning to "and". In Schedule 2, the entries relating to sections 21 (except subsection (8)) and 28 of and Schedule 3 to the Electoral Law Act (Northern Ireland) 1962.

PART II
SUBORDINATE LEGISLATION REVOKED

Year and Number	Title	Extent of Revocation
S.R.(N.I.) 1980/354	Electoral Law (Registration Rules) (Variation No.2) Order (Northern Ireland) 1980.	The whole Order.
S.R.(N.I.) 1985/333	Electoral Law (Registration Rules) (Variation) Order (Northern Ireland) 1985.	The whole Order.
S.R.(N.I.) 1986/194	Electoral Law (Registration Rules) (Variation) Order (Northern Ireland) 1986.	The whole Order.

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