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Changes to legislation: Local Government and Housing Act 1989, Cross Heading: Political restriction of officers and staff is up to date with all changes known to be in force on or before 14 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)



Local Government and Housing Act 1989

1989 CHAPTER 42

PART I

LOCAL AUTHORITY MEMBERS, OFFICERS, STAFF AND COMMITTEES ETC.

Political restriction of officers and staff

1 Disqualification and political restriction of certain officers and staff.

- (1) A person shall be disqualified from becoming (whether by election or otherwise) or remaining a member of a local authority if he holds a politically restricted post under that local authority or any other local authority in Great Britain.
- (2) In the ^{M1}House of Commons Disqualification Act 1975, in Part III of Schedule 1 (other disqualifying offices) there shall be inserted at the appropriate place—

“Person holding a politically restricted post, within the meaning of Part I of the Local Government and Housing Act 1989, under a local authority, within the meaning of that Part.”
- (3) In section 80 of the ^{M2}Local Government Act 1972 (disqualification for election and holding office as member of local authority)—
 - (a) in subsection (1)(a) (paid office holders and employees), the words “joint board, joint authority or” shall be omitted; and
 - (b) in subsection (6) (extension of meaning of “local authority”), after the word “includes” there shall be inserted “ a joint board and ”.
- (4) In section 31 of the ^{M3}Local Government (Scotland) Act 1973 (which makes corresponding provision for Scotland)—
 - (a) in subsection (1)(a)(ii), the words “or joint board” shall be omitted; and
 - (b) after subsection (1) there shall be inserted the following subsection—

“(1A) A person is disqualified for being a member of a joint board if he or a partner of his holds any paid office or employment (other than the

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office of chairman or vice-chairman of the board) or other place of profit in the gift or disposal of the board.”

- (5) The terms of appointment or conditions of employment of every person holding a politically restricted post under a local authority (including persons appointed to such posts before the coming into force of this section) shall be deemed to incorporate such requirements for restricting his political activities as may be prescribed for the purposes of this subsection by regulations made by the Secretary of State.
- (6) Regulations under subsection (5) above may contain such incidental provision and such supplemental, consequential and transitional provision in connection with their other provisions as the Secretary of State considers appropriate and, without prejudice to section 190(1) below, may contain such exceptions for persons appointed in pursuance of section 9 below as he thinks fit.
- (7) So far as it has effect in relation to disqualification for election, this section has effect with respect to any election occurring not less than two months after the coming into force of this section and, so far as it relates to becoming in any other way a member of a local authority, this section has effect with respect to any action which, apart from this section, would result in a person becoming a member of the authority not less than two months after the coming into force of this section.
- (8) If, immediately before the expiry of the period of two months referred to in subsection (7) above, a person who is a member of a local authority holds a politically restricted post under that or any other local authority, nothing in this section shall apply to him until the expiry of the period for which he was elected or for which he otherwise became a member of the authority.

Modifications etc. (not altering text)

- C1** S. 1 applied (S.) (temp.) (6.4.1995 to 1.4.1996) by [S.I. 1995/789](#), art. 2, [Sch.](#) entry 11
 S. 1 extended (E.W.) (19.9.1995) by [1995 c. 25](#), ss. 63(5), 125(2), [Sch. 7 para. 7\(4\)](#) (with ss. 7(6), 115, 117, [Sch. 8 para. 7](#))
 S. 1 extended (8.5.2000) by [1999 c. 29](#), ss. 68, 70 (with [Sch. 12 para. 9\(1\)](#)); [S.I. 2000/801](#), art. 2(2)(b), [Sch. Pt. 2](#)

Marginal Citations

- M1** [1975 c. 24](#).
M2 [1972 c. 70](#).
M3 [1973 c. 65](#).

2 Politically restricted posts.

- (1) The following persons are to be regarded for the purposes of this Part as holding politically restricted posts under a local authority—
 - (a) the person designated under section 4 below as the head of the authority’s paid service;
 - (b) the statutory chief officers;
 - (c) a non-statutory chief officer;
 - (d) a deputy chief officer;
 - (e) the monitoring officer designated under section 5 below;

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- (f) any person holding a post to which he was appointed in pursuance of section 9 below; and
 - (g) any person not falling within paragraphs (a) to (f) above whose post is for the time being specified by the authority in a list maintained in accordance with subsection (2) below and any directions under section 3 below or with section 100G(2) of the ^{M4}Local Government Act 1972 or section 50G(2) of the ^{M5}Local Government (Scotland) Act 1973 (list of officers to whom powers are delegated).
- (2) It shall be the duty of every local authority to prepare and maintain a list of such of the following posts under the authority, namely—
- (a) the full time posts the annual rate of remuneration in respect of which is or exceeds £19,500 or such higher amount as may be specified in or determined under regulations made by the Secretary of State;
 - (b) the part time posts the annual rate of remuneration in respect of which would be or exceed that amount if they were full time posts in respect of which remuneration were paid at the same rate as for the part time post; and
 - (c) posts not falling within paragraph (a) or (b) above the duties of which appear to the authority to fall within subsection (3) below,
- as are not posts for the time being exempted under section 3 below, posts for the time being listed under section 100G(2) of the ^{M6}Local Government Act 1972 or section 50G(2) of the ^{M7}Local Government (Scotland) Act 1973 or posts of a description specified in regulations made by the Secretary of State for the purposes of this subsection.
- (3) The duties of a post under a local authority fall within this subsection if they consist in or involve one or both of the following, that is to say—
- (a) giving advice on a regular basis to the authority themselves, to any committee or sub-committee of the authority or to any joint committee on which the authority are represented;
 - (b) speaking on behalf of the authority on a regular basis to journalists or broadcasters.
- (4) It shall be the duty of every local authority to deposit the first list prepared under subsection (2) above with their proper officer before the expiry of the period of two months beginning with the coming into force of this section; and it shall also be their duty, on subsequently making any modifications of that list, to deposit a revised list with that officer.
- (5) It shall be the duty of every local authority in performing their duties under this section to have regard to such general advice as may be given by virtue of subsection (1)(b) of section 3 below by a person appointed under that subsection.
- (6) In this section “the statutory chief officers” means—
- (a) the chief education officer or director of education appointed under section 88 of the ^{M8}Education Act 1944 or section 78 of the ^{M9}Education (Scotland) Act 1980;
 - (b) the chief officer of a fire brigade maintained under the ^{M10}Fire Services Act 1947 and appointed under regulations made under section 18(1)(a) of that Act;
 - (c) the director of social services or director of social work appointed under section 6 of the ^{M11}Local Authority Social Services Act 1970 or section 3 of the ^{M12}Social Work (Scotland) Act 1968; and

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- (d) the officer having responsibility, for the purposes of section 151 of the Local Government Act 1972, section 73 of the ^{M13}Local Government Act 1985, section 112 of the ^{M14}Local Government Finance Act 1988 or section 6 below or for the purposes of section 95 of the ^{M15}Local Government (Scotland) Act 1973, for the administration of the authority’s financial affairs.
- (7) In this section “non-statutory chief officer” means, subject to the following provisions of this section—
- (a) a person for whom the head of the authority’s paid service is directly responsible;
 - (b) a person who, as respects all or most of the duties of his post, is required to report directly or is directly accountable to the head of the authority’s paid service; and
 - (c) any person who, as respects all or most of the duties of his post, is required to report directly or is directly accountable to the local authority themselves or any committee or sub-committee of the authority.
- (8) In this section “deputy chief officer” means, subject to the following provisions of this section, a person who, as respects all or most of the duties of his post, is required to report directly or is directly accountable to one or more of the statutory or non-statutory chief officers.
- (9) A person whose duties are solely secretarial or clerical or are otherwise in the nature of support services shall not be regarded as a non-statutory chief officer or a deputy chief officer for the purposes of this Part.
- (10) Nothing in this section shall have the effect of requiring any person to be regarded as holding a politically restricted post by reason of his holding—
- (a) the post of head teacher or principal of a school, college or other educational institution or establishment which, in England and Wales, is maintained or assisted by a local education authority or, in Scotland, is under the management of or is assisted by an education authority; or
 - (b) any other post as a teacher or lecturer in any such school, college, institution or establishment,
- or of requiring any such post to be included in any list prepared and maintained under this section.
- (11) Regulations under this section may contain such incidental provision and such supplemental, consequential and transitional provision in connection with their other provisions as the Secretary of State considers appropriate.

Modifications etc. (not altering text)

- C2** [S. 2](#) applied (with modifications) (S.) (*temp.* 6.4.1995 to 31.3.1996) by [S.I. 1995/789](#), [art. 2](#), [Sch.](#) entry 11
- [S. 2](#) extended (E.W.) (19.9.1995) by [1995 c. 25](#), [ss. 63\(5\)](#), [125\(2\)](#), [Sch. 7 para. 7\(4\)](#) (with [ss. 7\(6\)](#), [115](#), [117](#), [Sch. 8 para. 7](#))

Marginal Citations

- M4** [1972 c. 70](#).
- M5** [1973 c. 65](#).
- M6** [1972 c.70](#).
- M7** [1973 c.65](#).

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- M8** 1944 c. 31.
- M9** 1980 c. 44.
- M10** 1947 c.41.
- M11** 1970 c. 42.
- M12** 1968 c. 49.
- M13** 1985 c. 51.
- M14** 1988 c. 41.
- M15** 1973 c. 65.

3 Grant and supervision of exemptions from political restriction.

- (1) It shall be the duty of the Secretary of State to appoint a person—
 - (a) to carry out the functions in relation to political restriction which are conferred by subsections (2) to (7) below; and
 - (b) to give such general advice with respect to the determination of questions arising by virtue of section 2(3) above as that person considers appropriate after consulting such representatives of local government and such organisations appearing to him to represent employees in local government as he considers appropriate.
- (2) A person appointed under subsection (1) above—
 - (a) shall consider any application for exemption from political restriction which is made to him, in respect of any post under a local authority, by the holder for the time being of that post; and
 - (b) may, on the application of any person or otherwise, give directions to a local authority requiring it to include a post in the list maintained by the authority under section 2(2) above.
- (3) An application shall not be made by virtue of subsection (2)(a) above in respect of a post under a local authority except where—
 - (a) the authority have specified or are proposing to specify the post in the list maintained by the authority under subsection (2) of section 2 above; and
 - (b) in the case of a post falling within paragraph (a) or (b) of that subsection, the authority have certified whether or not, in their opinion, the duties of the post fall within subsection (3) of that section;and it shall be the duty of a local authority to give a certificate for the purposes of paragraph (b) above in relation to any post if they are requested to do so by the holder of that post.
- (4) If, on an application made by virtue of subsection (2)(a) above in respect of any post under a local authority, the person to whom the application is made is satisfied that the duties of the post do not fall within section 2(3) above, that person shall direct—
 - (a) that, for so long as the direction has effect in accordance with its terms, the post is not to be regarded as a politically restricted post; and
 - (b) that, accordingly, the post is not to be specified in the list maintained by that authority under section 2(2) above or, as the case may be, is to be removed from that list.
- (5) A person appointed under subsection (1) above shall not give a direction under subsection (2)(b) above in respect of any post under a local authority except where he is satisfied that the post—
 - (a) is a post the duties of which fall within section 2(3) above; and

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- (b) is neither included in any list maintained by the authority in accordance with section 2(2) above, section 100G(2) of the ^{M16}Local Government Act 1972 or section 50G(2) of the ^{M17}Local Government (Scotland) Act 1973 nor of a description specified in any regulations under section 2(2) above.
- (6) It shall be the duty of a local authority—
- (a) to give a person appointed under subsection (1) above all such information as that person may reasonably require for the purpose of carrying out his functions under this section;
 - (b) to comply with any direction under this section with respect to the list maintained by the authority; and
 - (c) on being given a direction by virtue of subsection (2)(b) above, to notify the terms of the direction to the holder for the time being of the post to which the direction relates.
- (7) It shall be the duty of a person appointed under subsection (1) above, in carrying out his functions under this section, to give priority, according to the time available before the election, to any application made by virtue of subsection (2)(a) above by a person who certifies that it is made for the purpose of enabling him to be a candidate in a forthcoming election.
- (8) The Secretary of State may—
- (a) appoint different persons under subsection (1) above for England and for Wales;
 - (b) provide for the appointment of such numbers of staff to assist any person appointed under that subsection, and to act on that person's behalf, as the Secretary of State may with the consent of the Treasury determine;
 - (c) pay to or in respect of a person appointed under that subsection and members of such a person's staff such remuneration and such other sums by way of, or towards, the payment of pensions, allowances and gratuities as the Secretary of State may so determine; and
 - (d) provide for a person appointed under that subsection and such a person's staff to hold office on such other terms as the Secretary of State may so determine.

Modifications etc. (not altering text)

- C3** S. 3 applied (S.) (*temp.* 6.4.1995 to 31.3.1996) by S.I. 1995/789, art. 2, **Sch.** entry 11
 S. 3 extended (E.W.) (19.9.1995) by 1995 c. 25, ss. 63(5), 125(2), **Sch. 7 para. 7(4)** (with ss. 7(6), 115, 117, **Sch. 8 para. 7**)
 S. 3 extended (8.5.2000) by 1999 c. 29, ss. 68, 70 (with **Sch. 12 para. 9(1)**); S.I. 2000/801, art. 2(2)(b), **Sch. Pt. 2**

Marginal Citations

M16 1972 c. 70.

M17 1973 c. 65.

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