



# Police Reform and Social Responsibility Act 2011

## 2011 CHAPTER 13

### PART 1

#### POLICE REFORM

#### CHAPTER 6

##### POLICE AND CRIME COMMISSIONERS: ELECTIONS AND VACANCIES

##### *Elections: further provision*

#### **70 Declaration of acceptance of office of police and crime commissioner**

- (1) A person elected to the office of police and crime commissioner for any police area may not act in that office unless the person has—
  - (a) made a declaration of acceptance of the office in a form specified in an order made by the Secretary of State, and
  - (b) delivered the declaration to the appropriate officer, in each case, when not ineligible by virtue of subsection (5).
- (2) If the person fails to make and deliver a declaration in accordance with subsection (1) within the period of two months beginning with the day after the election, the office of police and crime commissioner for that area becomes vacant at the end of the period.
- (3) Any declaration made under this section must be made before—
  - (a) the appropriate officer;
  - (b) a justice of the peace or magistrate in the United Kingdom, the Channel Islands or the Isle of Man, or
  - (c) a commissioner appointed to administer oaths in the Senior Courts.

- (4) Any person before whom a declaration is authorised to be made under this section may take the declaration.
- (5) A person is ineligible to make or give a declaration of acceptance of office under this section in respect of the office of police and crime commissioner for a police area at any time when the person is a member of—
  - (a) the House of Commons;
  - (b) the Scottish Parliament;
  - (c) the National Assembly for Wales;
  - (d) the Northern Ireland Assembly;
  - (e) the European Parliament.
- (6) No salary, and no payment towards the provision of superannuation benefits, is to be paid under this Act to or in respect of a police and crime commissioner until the commissioner has complied with the requirements of subsection (1).
- (7) Subsection (6) does not affect any entitlement of a police and crime commissioner to payments in respect of the period before the commissioner complies with the requirements of subsection (1) once the commissioner has complied with those requirements.

## **71 Judicial proceedings as to disqualification or vacancy**

- (1) Any person who claims that a person purporting to be a police and crime commissioner for a police area is, or at any time since being elected has been, disqualified—
  - (a) from being a police and crime commissioner; or
  - (b) from being police and crime commissioner for the police area,
 may apply to the High Court for a declaration to that effect, and that accordingly the office of police and crime commissioner for the area is vacant.
- (2) An application under subsection (1) in respect of any person may be made whether the grounds on which it is made are alleged to have subsisted at the time when the person was elected or to have arisen subsequently.
- (3) No declaration may be made under this section in respect of any person on grounds which subsisted when the person was elected, if an election petition under an order under section 58 is pending or has been tried in which the person's disqualification on those grounds is or was in issue.
- (4) Any person who claims that a person purporting to be a police and crime commissioner for a police area has ceased to be the police and crime commissioner for the police area by virtue of—
  - (a) section 63, or
  - (b) section 70,
 may apply to the High Court for a declaration to that effect.
- (5) On an application under this section—
  - (a) the person in respect of whom the application is made is to be the respondent, and
  - (b) the applicant must give such security for the costs of the proceedings as the court may direct.

(6) The amount of the security may not exceed £5,000 or such other sum as the Secretary of State may specify by order.

(7) The decision of the court on an application under this section is final.

## **72 Amendment of police areas: term of office of commissioner**

(1) Subsection (2) applies where a person becomes police and crime commissioner for a resulting police area by virtue of, or of an election required to be held by, a police area alteration order.

(2) The person's term of office as police and crime commissioner ends at the time when it would end had the person been elected as police and crime commissioner at the previous ordinary election of commissioners in England or, as the case may be, Wales.

(3) In this section—

“police area alteration order” means—

(a) an order under section 32 of the Police Act 1996 (power to alter police areas by order);

(b) an order under section 10 of the Local Government and Public Involvement in Health Act 2007 (implementation of Boundary Committee for England review of local government areas) which alters the boundary of any police area in England;

(c) an order under section 58 of the Local Government Act 1972 (implementation of proposals by Local Government Boundary Commission for Wales) which alters the boundary of any police area in Wales;

“resulting police area”, in relation to a police area alteration order, means a police area existing immediately after the order comes into force—

(a) which is created by the order, or

(b) any part of whose boundary results from the order.

(4) References in this section to the coming into force of a police area alteration order are references to the changes in police areas made by the order taking effect.

## **73 Computation of time and timing of elections etc**

(1) Subsection (2) applies where the day, or the last day, on which anything is required or permitted to be done by or under section 50, 51 or 70 is not a business day.

(2) The requirement or permission is deemed to relate instead to the first business day after that day.

(3) Where under subsection (2) the day of an election is postponed, the day to which it is postponed is to be treated as the day of election for the purpose of—

(a) any provision of, or made under, this Act, or

(b) any relevant provision (within the meaning of section 58).

(4) Any day which is not a business day is to be disregarded in computing any period of time for the purpose of section 51.

(5) In this section, “business day” means a day other than—  
a Saturday,

a Sunday,  
 Christmas Eve,  
 Christmas Day,  
 Good Friday,  
 a bank holiday, or  
 a day appointed for public thanksgiving or mourning.

#### **74 Elections: consequential amendments**

Schedule 10 (consequential amendments relating to elections of persons as police and crime commissioners) has effect.

#### **75 The appropriate officer**

- (1) For each police area, other than the metropolitan police district, the Secretary of State must by order designate a local authority.
- (2) In this Chapter, the “appropriate officer”, in relation to any such police area, means the head of paid service of the local authority designated for that police area.
- (3) In this section—
  - “local authority” means—
    - (a) a district council,
    - (b) a county council in England for a county in which there are no district councils,
    - (c) the Council of the Isles of Scilly,
    - (d) a county council or county borough council in Wales;
  - “head of paid service”, in relation to a council, means the person designated by the council under section 4(1)(a) of the Local Government Act 1989.

#### **76 Interpretation of Chapter 6**

In this Chapter, the following terms have the following meanings, unless the context otherwise requires—

- “appropriate officer” has the meaning given by section 75;
- “elector”—
  - (a) in relation to an election of a police and crime commissioner, means a person entitled to vote at the election;
  - (b) in relation to a local government election, has the same meaning as in the Representation of the People Act 1983 (see section 202 of that Act);
- “electoral area” has the same meaning as in that Act as it applies in relation to England and Wales (see section 203 of that Act);
- “local government election” has the same meaning as in that Act as it applies in relation to England and Wales (see section 203 of that Act);
- “local government elector” means a person registered as a local government elector in the register of electors in accordance with the provisions of the Representation of the People Acts;
- “ordinary election” has the meaning given in section 50;
- “police area returning officer” has the meaning given by section 54.