Local Government Act (Northern Ireland) 1972

1972 CHAPTER 9

An Act to provide for the constitution of district councils to administer local government districts, for the regulation of such councils and for certain of their functions; to abolish existing local government areas and existing local authorities, with certain exceptions, and to enable provision to be made for the transfer of the functions, assets and liabilities of such authorities; and for connected purposes. [23rd March 1972]

PART I

DISTRICTS AND COUNCILS

1 District councils.

(1) For every local government district established in pursuance of the Local Government (Boundaries) Act (Northern Ireland) 1971 or the succeeding provisions of this Act there shall be a district council which—

(a) shall consist of members—

[[F1](i) elected by the local electors (within the meaning of section 130(1) of the Electoral Law Act (Northern Ireland) 1962) in each district electoral area in the district in accordance with the provisions of the Electoral Law Acts (Northern Ireland) 1962 to 1971 and the provisions of the Local Elections (Northern Ireland) Order 1985;**]**

(ii) of whom one shall be chairman and another may be vice-chairman; and

(b) shall have such functions as are conferred on the council by any statutory provision.

(2) A council shall be a body corporate with perpetual succession, and, subject to the provisions of this Act,—

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(a) the name of the council shall be the name of the district with the addition of words "district council" ; and

(b) section 19 of the Interpretation Act (Northern Ireland) 1954 shall apply to the council.

(3) In this Act—

"district" means a local government district such as is mentioned in subsection (1);

"council" means a district council;

"councillor" means a member of a council.

F1 SI 1985/454

2 Boroughs.

(1) A council may, in pursuance of a special resolution of the council, submit a petition to the Governor praying for the grant of a charter designating the district of the council a borough.

(2) Where a petition is submitted under subsection (1)—

(a) the Privy Council shall cause notice of the petition, and of the time when it pleases the Governor to order that the petition be taken into consideration, to be published in the Belfast Gazette at least one month before that time;

(b) the Governor, if by the advice of the Privy Council he thinks fit to do so, may grant a charter designating the district a borough.

(3) The designation of a district as a borough shall not affect the entity of the council for the district or derogate from its functions, but the charter shall have effect for such ceremonial and other purposes (including the designation of aldermen, who shall number not more than one-quarter of the whole number of the councillors, and the conferment of the freedom of the borough) as may be specified in the charter.

(4) Where a charter is granted under this Act before [[F2] 1st October 1974], designating a district a borough, the roll of honorary freemen of any borough existing in the district immediately before [[F3] 1st October 1973] shall become and form part of the roll of honorary freemen of the borough designated by the charter.

(5) A copy of every charter granted under this Act shall be laid before Parliament.

(6) All expenses in connection with a petition, or the grant of a charter, under this Act shall be paid by the council for the district.

(7) Subject to subsection (8), where a charter (whether granted under this Act or continuing to have effect by virtue of section 132(3)) has effect in relation to a district—

(a) the district shall be known as a borough;

(b) the council shall be known as the council of the borough;

(c) the chairman, and the vice-chairman, if any, of the council shall be known as, respectively, the mayor and the deputy mayor of the borough;

(d) those of the councillors who are designated as aldermen, in accordance with the charter, shall be known as the aldermen of the borough.

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(8) Where a borough is a city, for any reference in subsection (7) to the borough there shall be substituted a reference to the city; and, where the mayor of a city is entitled to bear the title of lord mayor, for the reference in paragraph (*c*) of subsection (7) to the mayor there shall be substituted a reference to the lord mayor, and for the reference in that paragraph to the deputy mayor there shall be substituted a reference to the deputy lord mayor.

(9) In this Act references to a district, council, chairman or vice-chairman include references to, respectively, a borough, borough council, mayor or deputy mayor, references to a councillor, except in relation to the nomination or election of councillors, include references to an alderman, and references to, or any references which are to be construed as references to, a borough, borough council, mayor or deputy mayor include references to, respectively, a city, city council, lord mayor or deputy lord mayor.

F2 1972 NI 21
F3 1972 NI 21

PART II

MEMBERS, MEETINGS AND PROCEDURE

COUNCILLORS

3 Qualifications.

(1) A person shall, unless disqualified by virtue of this Act or any other statutory provision, be qualified to be elected and to be a councillor, if on the relevant day he has attained the age of **[**[F4]eighteen**]** years and is a **[**[F5]qualifying Commonwealth citizen**]** or**[**[F6] a citizen of the Republic of Ireland**]****[**[F7] or a relevant citizen of the Union**]** and—

(a) on that day he is a local elector for the district of the council; or

(b) he has during the whole of the twelve months immediately preceding that day—

(i) occupied as owner or tenant any land in the district of the council, or

(ii) resided in the district of the council; or

(c) his principal or only place of work during that twelve months has been in the district of the council.

(2) In this section**[**[F7] "citizen of the Union" shall be construed in accordance with Article 8.1 of the Treaty establishing the European Community (as amended by Title II of the Treaty on European Union) and "relevant citizen of the Union" means such a citizen who is not a **[**[F8]qualifying**]** Commonwealth citizen or a citizen of the Republic of Ireland; and**]** "relevant day", in relation to any candidate, means the day on which he is nominated as a candidate and also, if there is a poll, the day of his election.

(3) For the purposes of subsection (1), in its application to any candidate, the district shall be treated as having been established not less than twelve months before the day on which he is nominated as a candidate.

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[[F9](4) For the purposes of this section, a person is a qualifying Commonwealth citizen if he is a Commonwealth citizen who either—

(a) is not a person who requires leave under the Immigration Act 1971 to enter or remain in the United Kingdom, or

(b) is such a person but for the time being has (or is, by virtue of any enactment, to be treated as having) indefinite leave to remain within the meaning of that Act.

(5) But a person is not a qualifying Commonwealth citizen by virtue of subsection (4)(a) if he does not require leave to enter or remain in the United Kingdom by virtue only of section 8 of the Immigration Act 1971 (exceptions to requirement for leave in special cases).**]**

F4 Words in s. 3(1) substituted (7.2.2007) by Electoral Administration Act 2006 (c. 22), **ss. 17(6)**, 77(2); S.I. 2007/230, **art. 2**

F5 Words in s. 3(1) substituted (1.7.2008) by Electoral Administration Act 2006 (c. 22), ss. 18(6), 77(2), **Sch. 1 para. 47(2)**; S.I. 2008/1316, **arts. 2(2)(3)**, 4(b), 5(f)(i)

F6 1989 c.3

F7 SI 1995/1948

F8 Word in s. 3(2) inserted (1.7.2008) by Electoral Administration Act 2006 (c. 22), ss. 18(6), 77(2), **Sch. 1 para. 47(3)**; S.I. 2008/1316, **arts. 2(2)(3)**, 4(b), 5(f)(i)

F9 S. 3(4)(5) inserted (1.7.2008) by Electoral Administration Act 2006 (c. 22), ss. 18(6), 77(2), **Sch. 1 para. 47(4)**; S.I. 2008/1316, **arts. 2(2)(3)**, 4(b), 5(f)(i)

4 Disqualifications.

(1) Subject to section 5, a person shall be disqualified for being elected or being a councillor if—

(a) he holds any paid office or other place of profit (not being that of chairman or sheriff) in the gift or disposal of that or any other council; or

[[F10](b) is the subject of a bankruptcy restrictions order or interim order;**]**

[[F11](c) he is disqualified for being elected or being a councillor under Article 19 or 20 of the Local Government (Northern Ireland) Order 2005;**]**

[[F12](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**]**

(d) he has within the five years immediately preceding the day of his election or at any time subsequent to that day[F12]. . . been guilty of any conduct which the High Court has by order declared was reprehensible within the meaning of section 31; or

[[F12](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 delaration against terrorism as defined in section 7 of the Elected Authorities (Northern Ireland) Act 1989; or**]**

(e) he is disqualified for being elected or being a councillor either under section 6(2) or under any other statutory provision (including a provision relating to corrupt or illegal practices).

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Subs.(2) rep. by 1985 NI 15

[[F12](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.**]**

F10 S. 4(1)(b) substituted (27.3.2006) by Insolvency (Northern Ireland) Order 2005 (S.I. 2005/1455 (N.I. 10)), arts. 1(3), 23(1); S.R. 2006/21, **art. 2** (subject to S.R. 2006/22, arts. 2-7)

F11 S. 4(1)(c) substituted (1.4.2006) by Local Government (Northern Ireland) Order 2005 (S.I. 2005/1968 (N.I. 18)), arts. 1(2), 28(2); S.R. 2006/151, **art. 2**, Sch. (with art. 4)

F12 1989 c.3

5 Disqualifications to become inapplicable in certain cases.

[F13] . . . . . .

F13 S. 5 repealed (27.3.2006) by Insolvency (Northern Ireland) Order 2005 (S.I. 2005/1455 (N.I. 10)), arts. 1(3), 23(2), 31, Sch. 9; S.R. 2006/21, **art. 2** (subject to S.R. 2006/22, arts. 2-7)

6 Penalties for acting while disqualified.

(1) Subject to the succeeding provisions of this section, if any person acts or purports to act as a councillor while disqualified within the meaning of this section for so acting, he shall be guilty of an offence and shall be liable—

(a) on conviction on indictment, to**[**[F14] an unlimited fine**]** or to imprisonment for a term not exceeding one year, or to both; or

(b) on summary conviction to a fine not exceeding**[**[F14] level 3 on the standard scale**]**.

(2) A person who is convicted of an offence under subsection (1) shall for a period of five years next occurring after the date of conviction be disqualified for being elected or being a councillor.

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(3) A person shall be deemed to be disqualified within the meaning of this section for acting as a councillor of a council—

(a) if, under any statutory provision, he is disqualified for being, or is not qualified to be, a councillor of that council; or

(b) if for any reason, he has ceased to be a councillor of that council.

(4) Where on a prosecution for an offence under subsection (1) it is alleged against any person that at the day of his election he was disqualified for being elected a councillor, and the court is satisfied that a local election petition questioning his election has, within the time specified in section 80 of the Electoral Law Act (Northern Ireland) 1962 , been presented under section 79 of that Act, the court shall adjourn the prosecution pending the final determination of the trial of that petition and shall on any adjourned hearing after such determination take into account any finding of law embodied therein so far as the same may be relevant.

F14 1984 NI 3

7 Declaration on acceptance of office.

(1) A person elected to the office of councillor shall not act in that office until he has made, and has served on the clerk of the council, a declaration in the form set out in Part I of Schedule 1.

(2) If a person elected to the office of councillor does not make the declaration mentioned in subsection (1), and serve it on the clerk of the council, within the period of two months from the day of his election, the office of the person elected shall at the expiration of that period become vacant.

[[F15]7A Northern Ireland code of local government conduct.

(1) The Department, for the guidance of members of councils, may issue a code of recommended practice as regards the conduct of members of councils to be known as the Northern Ireland code of local government conduct.

(2) The Department may revise or withdraw a code issued under this section.

(3) The Department, before issuing, revising or withdrawing a code, shall consult such councils, such associations or bodies representative of councils and such other associations or public bodies as appear to the Department to be desirable.

(4) A code shall not be issued or revised unless a draft of it has been laid before and approved by a resolution of the Assembly.

(5) The form of declaration of acceptance of office under section 7 and Part I of Schedule 1 shall include an undertaking by the declarant to be guided by the Northern Ireland code of local government conduct in the performance of his functions.

(6) In this section “member”, in relation to a council, includes any person who, whether or not a member of the council, is a member of a committee or sub-committee of the council or of any joint committee of two or more councils.**]**

F15 1992 NI 6

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8 Resignation.

(1) A councillor may at any time resign his office as such by notice signed by him and served on the clerk of the council.

(2) A resignation shall take effect upon the receipt by the clerk of the notice of resignation.

9 Vacation of office on account of non-attendance.

[[F16](1) Subject to subsections (2) and (3), if a councillor fails throughout a period of six consecutive months from the date of his last attendance to attend any meeting of the council, he shall, unless the failure was due to some reason approved by the council before the expiry of that period, cease to be a member of the council.

(2) Attendance—

(a) at a meeting of—

(i) any committee or sub-committee of the council;

(ii) any joint committee or any of the sub-committees to which any of the functions of the council have been delegated;

(b) as a representative of the council at a meeting of any body, attendance at a meeting of which is an approved duty for the purposes of regulations made under section 36,

shall be deemed for the purposes of subsection (1) to be attendance at a meeting of the council.**]**

(3) A member of any branch of Her Majesty's naval, military or air forces, when employed during war or any emergency on any naval, military or air force service, and a person whose employment in the service of Her Majesty in connection with war or any emergency is such as, in the opinion of the Ministry, would entitle his absence to be excused, shall not cease by virtue of subsection (1) to be a councillor by reason only of his failure to attend meetings of the council if that failure is attributable to that employment.

F16 1995 NI 5

10 Declaration of vacancy in office in certain cases.

Where a councillor—

(a) becomes disqualified for being a councillor**[**[F17]otherwise than under Article 19 or 20 of the Local Government (Northern Ireland) Order 2005 or by reason of**]** a conviction**[**[F18] or of a determination 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 of his being guilty of any conduct which the High Court has by order declared was reprehensible within the meaning of section 31, or of a breach of any statutroy provision relating to corrupt or illegal practices; or

(b) ceases to be a councillor by reason of failure to attend meetings of the council;

the council shall forthwith declare his office as councillor to be vacant and signify the vacancy by notice signed by the clerk of the council and published in such manner as the council directs.

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F17 Words in s. 10(a) substituted (1.4.2006) by Local Government (Northern Ireland) Order 2005 (S.I. 2005/1968 (N.I. 18)), arts. 1(2), 28(3); S.R. 2006/151, **art. 2**, Sch. (with art. 4)

F18 1992 NI 6

CHAIRMAN AND VICE-CHAIRMAN

11 Chairman.

(1) The chairman of a council shall be elected annually by the council from among the councillors.

Subs.(2) rep. by 1992 NI 6

(3) **[**[F19]Subject to paragraph 3(4) of Schedule 2,**]** the chairman shall, unless he resigns or becomes disqualified, continue in office until his successor becomes entitled to act.

(4) During his term of office, the chairman of a council shall continue to be a member of the council, notwithstanding the provisions of section 11(2)(*c*) of the Electoral Law Act (Northern Ireland) 1962 (retirement of councillors).

F19 1992 NI 6

12 Payment of allowance to chairman.

A council may pay to the chairman of the council such allowance as the council considers to be reasonable to meet the expenses of his office.

[[F20]12A Election of chairman.

(1) The election of a chairman shall be the first business transacted at the annual meeting of the council.

(2) If, apart from section 11(4) or 13(1), the person presiding at the meeting would have ceased to be a member of the council, he shall not be entitled to vote in the election except in accordance with paragraph (3).

(3) In the case of an equality of votes the person presiding at the meeting shall give a casting vote in addition to any other vote he may have.**]**

F20 1992 NI 6

13 Vice-chairman.

(1) A council may elect a councillor to be vice-chairman of the council and**[**[F21], subject to paragraph 3(4) of Schedule 2,**]** the vice-chairman shall, unless he resigns or becomes disqualified, hold office until the chairman elected at the next annual meeting of the council becomes entitled to act, and during that time shall continue to be a member of the council notwithstanding the provisions of section 11(2)(*c*) of the Electoral Law Act (Northern Ireland) 1962.

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(2) Subject to any standing orders made by the council, anything authorised or required to be done by, to or before the chairman in relation to the business of the council may be done by, to or before the vice-chairman.

[[F22](2A) A council may pay to the vice-chairman of the council such allowance as the council considers to be reasonable to meet the expenses of his office.**]**

(3) Notwithstanding anything in section 18(3)(*a*) of the Interpretation Act (Northern Ireland) 1954 , no function shall be exercisable by or in relation to a deputy mayor or a deputy lord mayor that is not exercisable by or in relation to any other vice-chairman of a council.

F21 1992 NI 6
F22 1985 NI 15

14 Declaration of acceptance of office.

(1) A person elected to the office of chairman or vice-chairman of a council shall not act in that office until he has made a declaration that he accepts the office and has served the declaration on the clerk of the council.

(2) If a person elected to the office of chairman or vice-chairman does not make the declaration mentioned in subsection (1), and serve it on the clerk of the council, within the period of two months from the day of his election, the office of the person elected shall at the expiration of that period become vacant.

15 Resignation.

(1) A person elected to the office of chairman or vice-chairman of a council may at any time resign his office as such by notice signed by him and served on the clerk of the council.

(2) A resignation shall take effect upon the receipt by the clerk of the notice of resignation.

16 Vacation of office on account of absence from district.

(1) If the chairman of a council is continuously absent from the district of the council for which he acts, except in case of illness, for a period exceeding three months, he shall, as from the expiration of that period, cease to hold his office as chairman.

(2) Where a person ceases to be chairman of a council under subsection (1), the council shall forthwith declare his office as chairman to be vacant and signify the vacancy by notice signed by the clerk of the council and published in such manner as the council directs.

17 Casual vacancy in office of chairman.

(1) On a casual vacancy occurring in the office of chairman of a council, the councillors shall elect one of their number to be chairman.

(2) An election under subsection (1) shall be held not later than the next ordinary meeting of the council held after the date on which the vacancy occurs, or if that meeting is held within fourteen days after that date, then not later than the next following ordinary

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meeting of the council, and shall be the first business transacted at the meeting in question.

(3) A meeting of a council for the purposes of an election under subsection (1) may be convened by the clerk of the council.

(4) A person elected to fill a casual vacancy shall hold office until the date upon which the person in whose place he is elected would regularly have retired, and he shall then retire.

COMMITTEES

18 Power to appoint committees and sub-committees.

(1) A council may appoint a committee for any such general or special purpose as in the opinion of the council would be better regulated and managed by means of a committee, and may delegate to a committee so appointed, with or without restrictions or conditions, as the council thinks fit, any functions exercisable by the council with respect to either the whole or a part of the district of the council, except the power of making a rate, or of borrowing money or of acquiring, holding or disposing of land, and any transferred provision regulating the exercise of a function by a council shall also apply to regulate the exercise of that function by a committee.

(2) The number of members of a committee appointed under this section, their term of office, and the area, if any, with respect to which the committee is to exercise its functions shall be fixed by the council.

(3) A committee appointed under this section may include persons who are not councillors, but at least two-thirds of the members of every committee shall be councillors.

(4) A committee appointed under this section may, subject to any directions of the council, appoint a sub-committee for the exercise of any function which in the opinion of the council or the committee would be better exercised by a sub-committee, and may if so authorised by the council delegate to such sub-committee with or without restrictions or conditions as the committee think fit any functions of the council delegated to the committee under subsection (1).

(5) A sub-committee appointed under subsection (4) may include persons who are not councillors, but the majority of the members of every sub-committee shall be councillors.

(6) Every member of a committee or sub-committee appointed under this section who was a councillor at the time of his appointment shall, upon ceasing to be a councillor, cease to be a member of the committee or sub-committee.

(7) A council which appoints a committee, or a committee which appoints a sub-committee, may revoke any appointment made under this section and, in the case of a council, may revoke or vary anything delegated, or any restriction or condition imposed, under subsection (1) or anything fixed under subsection (2).

(8) A member of a committee or sub-committee who is not a councillor shall have the same exemption from personal liability as if he were a councillor.

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Modifications etc. (not altering text)

C1 S. 18 excluded (1.4.2006) by Local Government (Northern Ireland) Order 2005 (S.I. 2005/1968 (N.I. 18)), arts. 1(2), 12(7); S.R. 2006/151, **art. 2**, Sch. (with art. 3)

19 Joint committees.

(1) A council may concur with any one or more than one other council in appointing a committee of those councils (in this Act referred to as a "joint committee") for any purpose in which they are jointly interested, and may delegate to the joint committee, with or without restrictions or conditions as the council thinks fit, any functions of the council relating to the purpose for which the joint committee is formed, except the power of making a rate, or (except where the joint committee is constituted as a body corporate by an order under subsection (9) and power in that behalf is conferred by the order) the power of borrowing money, or of acquiring, holding or disposing of land, and any transferred provision regulating the exercise of a function by a council shall also apply to regulate the exercise of that function by a joint committee.

(2) Subject to the provisions of this section, the number of members of a joint committee, their term of office and the area, if any, with respect to which the joint committee is to exercise its functions shall be fixed by the appointing councils.

(3) The persons appointed by a council to a joint committee may include persons who are not councillors, but at least two-thirds of the members of the joint committee who are so appointed shall be councillors.

(4) A joint committee may appoint a sub-committee for the exercise of any function which in the opinion of the joint committee would be better exercised by a sub-committee.

(5) A sub-committee appointed under subsection (4) may include persons who are not councillors, but the majority of the members of every sub-committee shall be councillors of the councils which appointed the joint committee.

(6) Every member of a joint committee or sub-committee who at the time of his appointment was a member of a council which concurred in appointing the joint committee shall, upon ceasing to be a member of that council, also cease to be a member of the joint committee or sub-committee.

(7) A member of a joint committee, unless his term of office earlier expires, shall continue in office until the day after the first meeting of the council by which he was appointed that is held after an election of councillors (other than an election to fill a casual vacancy), and at that first meeting the council shall appoint the members of the joint committee whom it is entitled to appoint.

(8) A council which appoints members of a joint committee, or a joint committee which appoints a sub-committee, may revoke any appointment made under this section, and councils which concur in delegating any function, or imposing any restriction or condition, under subsection (1), or in fixing anything under subsection (2), may concur in revoking or varying anything so delegated, imposed or fixed.

(9) The Ministry concerned, on the application of all the councils concerned, may by order make provision for the purpose of—

(a) constituting a joint committee a body corporate with perpetual succession by the name specified in the order;

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(b) fixing the functions of the body corporate so constituted;

(c) applying to that body any transferred provision, subject to the modifications (if any) specified in the order;

(d) providing for the winding-up and dissolution of any body corporate so constituted.

(10) A member of a joint committee or sub-committee who is not a councillor shall have the same exemption from personal liability as if he were a councillor.

Modifications etc. (not altering text)

C2 S. 19 excluded (1.4.2006) by Local Government (Northern Ireland) Order 2005 (S.I. 2005/1968 (N.I. 18)), arts. 1(2), 12(7); S.R. 2006/151, **art. 2**, Sch. (with art. 3)

[F23 19A Voting rights of members of committees, sub-committees and joint committees.

(1) A person who—

(a) is a member of a committee appointed under section 18(1) by a council and is not a member of that council; or

(b) is a member of a joint committee appointed under section 19(1) by 2 or more councils and is not a member of any of those councils; or

(c) is a member of a sub-committee appointed under section 18(4) or 19(4) by such a committee as is mentioned in paragraph (*a*) or (*b*) and is not a member of the council, or one of the councils, which appointed that committee,

shall for all purposes be treated as a non-voting member of that committee, joint committee or, as the case may be, sub-committee.

(2) Where a person is treated by virtue of this section as a non-voting member of any committee, joint committee or sub-committee, he shall not be entitled to vote at any meeting of the committee, joint committee or sub-committee on any question which falls to be decided at that meeting.

(3) In this section any reference to voting includes a reference to making use of a casting vote.**]**

F23 1992 NI 6

20 Expenses of joint committees.

The expenses incurred by a joint committee shall be defrayed by the councils by whom the joint committee is appointed in such proportions as they may agree upon, or in the case of disagreement as may be determined by the Ministry.

21 Disqualification for membership of committees.

(1) A person who is disqualified for being elected or being a member of a council shall be disqualified for being a member of any committee or sub-committee of that council, or for being a representative of that council on any joint committee, or for being a member of a sub-committee of a joint committee on which that council is represented.

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(2) Section 6 shall apply to members of a committee or sub-committee of a council who are not councillors as it applies to councillors.

PROCEDURE OF COUNCIL AND COMMITTEES

22 Meetings and proceedings.

[[F24](1) Subject to the following provisions of this section,**]** the provisions of Schedule 2 shall have effect as respects meetings and proceedings of councils and their committees.

[[F24](2) Regulations may require councils, subject to such variations as may be authorised by the regulations—

(a) to incorporate such provision as may be prescribed by the regulations in standing orders for regulating their proceedings and business; and

(b) to make or refrain from making such other modifications of any such standing orders as may be so prescribed.

(3) Without prejudice to the generality of subsection (2), regulations under that subsection may require such standing orders as are mentioned in that subsection to contain provision which, notwithstanding any statutory provision or the decision of any council or committee or sub-committee of a council, authorises persons who are members of such a council, committee or sub-committee—

(a) to requisition meetings of the council or of any of its committees or sub-committees;

(b) to require a decision of a committee or sub-committee of the council to be referred to and reviewed by the council itself or by a committee of the council;

(c) to require that a vote with respect to a matter falling to be decided by the council or by any of its committees or sub-committees is to be taken in a particular manner.

(4) Regulations under subsection (2) may contain such incidental provision and such supplemental, consequential and transitional provision in connection with their other provisions as the Department considers appropriate.**]**

F24 1992 NI 6

ADMISSION TO MEETINGS

23 Admission of public to meetings.

(1) Subject to the provisions of this section and section 27 every meeting of a council shall be open to the public.

(2) A council may by resolution exclude the public from a meeting of the council (whether during the whole or part of the proceedings at the meeting) whenever publicity would be prejudicial to the public interest—

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(a) by reason of the confidential nature of the business to be transacted at the meeting; or

(b) for such special reasons as may be specified in the resolution being reasons arising from the nature of the business to be transacted or of the proceedings at the meeting.

(3) Without prejudice to the generality of subsection (2), a council may treat the need to receive or consider recommendations or advice from sources other than councillors, or committees or sub-committees of the council, or joint committees as a special reason for the purposes of subsection (2)(*b*) without regard to the subject or purport of the recommendations or advice.

(4) Where at a meeting of a council the council resolves itself into committee, the proceedings in committee shall for the purposes of this Act be treated as forming part of the proceedings of the council at the meeting.

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)**

C4 Ss. 23-27 applied (with modifications) (25.1.2010) by Health and Social Care Act 2008 (c. 14), ss. 98(3), 170(3), **Sch. 6 para. 23**; S.I. 2010/23, **art. 2(b)(g)(iii)**

24 Information to be given as to meetings.

Where a meeting of a council is required by section 23 to be open to the public during the whole or any part of the proceedings at the meeting, the council shall, if so requested by or on behalf of a newspaper and on payment by or on behalf of that newspaper of postage or other necessary expenses which may be incurred for transmission, supply for the benefit of that newspaper—

(a) a copy of the agenda as circulated to members of the council with the omission of any item during the proceedings on which the meeting is likely not to be open to the public; and

(b) such further statements or particulars and copies of such other documents as are necessary to indicate the nature of any item included in the copy of the agenda so supplied.

Modifications etc. (not altering text)

C5 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)**

C6 Ss. 23-27 applied (with modifications) (25.1.2010) by Health and Social Care Act 2008 (c. 14), ss. 98(3), 170(3), **Sch. 6 para. 23**; S.I. 2010/23, **art. 2(b)(g)(iii)**

25 Facilities for newspaper representatives.

At all times during which a meeting of a council is required by this Act to be open to the public, the council shall, so far as practicable, cause to be made available to duly accredited representatives of newspapers attending for the purpose of reporting

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proceedings at the meeting reasonable facilities for taking reports of those proceedings and, on payment by those representatives or their newspapers of any expenses which may be incurred, for transmitting such reports to their newspapers.

Modifications etc. (not altering text)

C7 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)**

C8 Ss. 23-27 applied (with modifications) (25.1.2010) by Health and Social Care Act 2008 (c. 14), ss. 98(3), 170(3), **Sch. 6 para. 23**; S.I. 2010/23, **art. 2(b)(g)(iii)**

26 Certain publications to be privileged.

Where a council supplies to any member of the public attending a meeting of the council or, pursuant to section 24, supplies for the benefit of a newspaper copies of the agenda, statements, particulars, and copies of other documents mentioned in that section, the publication of any defamatory matter contained in the agenda, statements, particulars or documents so supplied shall be privileged unless the publication is proved to be made with malice.

Modifications etc. (not altering text)

C9 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)**

C10 Ss. 23-27 applied (with modifications) (25.1.2010) by Health and Social Care Act 2008 (c. 14), ss. 98(3), 170(3), **Sch. 6 para. 23**; S.I. 2010/23, **art. 2(b)(g)(iii)**

27 Savings.

Nothing in section 23 or 25 shall—

(a) affect or derogate from any power of excluding persons from a meeting for the purpose of suppressing or preventing disorderly or other misbehaviour at, or disturbance of, the meeting;

(b) require a council to permit the taking of photographs of any proceedings or the use of any means to enable persons not present at a meeting to see or hear any of the proceedings (whether at the time or later) or the making of any oral report on any proceedings as they take place.

Modifications etc. (not altering text)

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 Ss. 23-27 applied (with modifications) (25.1.2010) by Health and Social Care Act 2008 (c. 14), ss. 98(3), 170(3), **Sch. 6 para. 23**; S.I. 2010/23, **art. 2(b)(g)(iii)**

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PECUNIARY INTERESTS

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

[F25](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

(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**[**[F26] 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**[**[F27] 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

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(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.

F25 1965 c.13 (NI), 1970 c.9 (NI), 1972 NI 14, 1981 NI 3
F26 1998 c. 32
F27 1984 NI 3

Modifications etc. (not altering text)

C13 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**

C14 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**

C15 S. 28 applied (with modifications) (prosp.) by Justice Act (Northern Ireland) 2011 (c. 24), ss. 20(3), 111(3), **Sch. 1 para. 20** (with s. 106(4))

C16 S. 28 applied (with modifications) (prosp.) by Justice Act (Northern Ireland) 2011 (c. 24), ss. 20(4), 111(3), **Sch. 2 para. 20** (with s. 106(4))

C17 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**

C18 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.

[F28](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

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or discussion of, or vote on, the question whether any application should be made to the Ministry for a direction under this section.

F28 1965 c.13 (NI), 1970 c.9 (NI), 1972 NI 14, 1981 NI 3

Modifications etc. (not altering text)

C19 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**

C20 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**

C21 S. 29 applied (with modifications) (prosp.) by Justice Act (Northern Ireland) 2011 (c. 24), ss. 20(3), 111(3), **Sch. 1 para. 20** (with s. 106(4))

C22 S. 29 applied (with modifications) (prosp.) by Justice Act (Northern Ireland) 2011 (c. 24), ss. 20(4), 111(3), **Sch. 2 para. 20** (with s. 106(4))

30 Relatives of councillors.

[F29](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—

(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**[**[F30] 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**[**[F31] or

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civil partners**]** or if the officer or candidate, or the husband or wife**[**[F31] 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**[**[F31] or civil partner**]** of the councillor.

F29 1965 c.13 (NI), 1970 c.9 (NI), 1972 NI 14, 1981 NI 3
F30 1984 NI 3
F31 2004 c.33

Modifications etc. (not altering text)

C23 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**

C24 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**

C25 S. 30 applied (with modifications) (prosp.) by Justice Act (Northern Ireland) 2011 (c. 24), ss. 20(3), 111(3), **Sch. 1 para. 20** (with s. 106(4))

C26 S. 30 applied (with modifications) (prosp.) by Justice Act (Northern Ireland) 2011 (c. 24), ss. 20(4), 111(3), **Sch. 2 para. 20** (with s. 106(4))

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

[F32](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—

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(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

(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.

F32 1965 c.13 (NI), 1970 c.9 (NI), 1972 NI 14, 1981 NI 3

Modifications etc. (not altering text)

C27 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)**

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C28 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**

C29 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**

C30 S. 31 applied (with modifications) (prosp.) by Justice Act (Northern Ireland) 2011 (c. 24), ss. 20(3), 111(3), **Sch. 1 para. 20** (with s. 106(4))

C31 S. 31 applied (with modifications) (prosp.) by Justice Act (Northern Ireland) 2011 (c. 24), ss. 20(4), 111(3), **Sch. 2 para. 20** (with s. 106(4))

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

[F33](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.

(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 an inspector appointed by the Ministry of Commerce under**[**[F34] Article 424 of the Companies (Northern Ireland) Order 1986 and accordingly Articles 426 (inspectors' powers during investigations) and 427 to 429 (production of documents and evidence) of that Order**]** shall have effect for the purposes of an investigation by an inspector appointed under subsection (1)(*b*) as they have effect for the purposes of an investigation by an inspector appointed under**[**[F34] the said Article 424**]**.

(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.

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(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 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.

F33 1965 c.13 (NI), 1970 c.9 (NI), 1972 NI 14, 1981 NI 3
F34 1986 NI 9

Modifications etc. (not altering text)

C32 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**

C33 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.

[F35](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.

Status: *Point in time view as at 01/07/2008.*
Changes to legislation: *There are outstanding changes not yet made by the legislation.gov.uk editorial team to Local Government Act (Northern Ireland) 1972. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)*

(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.

F35 1965 c.13 (NI), 1970 c.9 (NI), 1972 NI 14, 1981 NI 3

Modifications etc. (not altering text)

C34 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**

C35 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**

C36 S. 33 applied (with modifications) (prosp.) by Justice Act (Northern Ireland) 2011 (c. 24), ss. 20(3), 111(3), **Sch. 1 para. 20** (with s. 106(4))

C37 S. 33 applied (with modifications) (prosp.) by Justice Act (Northern Ireland) 2011 (c. 24), ss. 20(4), 111(3), **Sch. 2 para. 20** (with s. 106(4))

GENERAL PROVISIONS AS TO COUNCILLORS, CHAIRMAN, VICE-CHAIRMAN AND MEMBERS OF COMMITTEES, ETC.

34 Re-election.

A person ceasing to hold any office under this Act shall, unless he is not qualified or is disqualified, be eligible for re-election.

35 Validity of acts done by unqualified person.

The acts and proceedings of any person who has been elected to an office under this Act and acts in that office shall, notwithstanding his disqualification or want of qualification, be as valid and effectual as if he had been qualified.

36 Payments to councillors.

[F36](1) Regulations may provide for the making by councils, subject to and in accordance with the regulations, of payments to councillors for, or in relation to anything done in connection with, service as councillors; but payments under the regulations shall not exceed such amounts or rates as the Department may determine.]

(2) In this section "councillor" includes a member of a committee or sub-committee of a council, whether he is a member of the council or not.

F36 1978 NI 11

37 Expenses of official and courtesy visits, etc.

(1) Subject to subsection (2), a council may—

(a) make payments towards expenditure reasonably incurred by councillors in making official or courtesy visits, whether inside or outside the United Kingdom, on behalf of the council;

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(b) defray any expenses reasonably incurred in the reception and entertainment by way of official courtesy of distinguished persons residing in or visiting the district of the council or persons representative of or connected with local government or other public services whether inside or outside the United Kingdom, and in the supply of information to any such persons.

(2) The payments which a council may make under subsection (1)(*a*) towards expenditure incurred by a councillor for any purpose corresponding to a purpose for which payments may be made under section 36 shall be at rates to be determined by the council but not exceeding the rates [[F37] determined by the Department] under section 36 for payments for the corresponding purpose.

(3) In this section "councillor" includes a member of a committee or sub-committee of a council, whether he is a member of the council or not.

F37 1978 NI 11

38 Expenses incurred in attending conferences and meetings.

(1) Subject to subsection (3), a council may make payments towards expenditure reasonably incurred by a councillor or an officer of the council in respect of attendance authorised by the council at any conference or meeting, whether inside or outside the United Kingdom, convened by any person or body (other than a person or body convening it in the course of a trade or business or a body whose objects are wholly or partly political) for the purpose of discussing matters connected with the discharge of the functions of the council or the development of trade, industry or commerce in the district or otherwise affecting the district or its inhabitants.

(2) Payments made under subsection (1) may include any reasonable expenses incurred in purchasing reports of the proceedings of any such conference or meeting.

(3) The payments which a council may make under subsection (1) towards expenditure incurred by a councillor for any purpose corresponding to a purpose for which payments may be made under section 36 shall be at rates to be determined by the council but not exceeding the rates [[F38] determined by the Department] under section 36 for payments for the corresponding purpose.

(4) In this section "councillor" includes a member of a committee or sub-committee of a council, whether he is a member of the council or not.

F38 1978 NI 11

39 Insurance against accidents to councillors.

(1) A council may insure against risks of a councillor meeting with a personal accident, whether fatal or not, while he is engaged on the business of the council.

(2) Any sum received by the council under any such insurance shall, after deduction of any expenses incurred in the recovery thereof, be paid by the council to, or to the personal representatives of, the councillor in respect of an accident to whom that sum is received.

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(3) The provisions of the Life Assurance Act 1774 as extended by the Life Insurance (Ireland) Act 1866 shall not apply to any insurance under this section.

(4) In this section "councillor" includes a member of a committee or sub-committee of a council, whether he is a member of the council or not.

PART III

OFFICERS

40 The Staff Commission.

(1) There shall be established a body to be known as the Local Government Staff Commission for Northern Ireland (in this Act referred to as "the Staff Commission") for the purpose of exercising general oversight of matters connected with the recruitment, training and terms and conditions of employment of officers of councils [F39 and of the Northern Ireland Housing Executive (in this Act referred to as "the Executive")] and of making recommendations to councils [F39 and to the Executive] on such matters.

(2) The Staff Commission shall be a body corporate with perpetual succession, and section 19 of the Interpretation Act (Northern Ireland) 1954 shall apply to it.

(3) The Staff Commission shall consist of—

(a) a chairman, and

(b) not more than**[**F40 fourteen**]** or less than six other members,

appointed by the Minister after consultation with—

(i) such**[**F40 councils and**]** associations representative of councils or their staffs as appear to the Minister to be concerned, and [F39 the Executive and such associations representative of the staff of the Executive as appear to the Department to be concerned, and]

(ii) any other association or any public body with whom consultation appears to the Minister to be desirable.

(4) Without prejudice to the generality of subsection (1), the functions of the Staff Commission shall include—

(a) establishing, in such manner as the Staff Commission thinks fit, bodies (to be known as "advisory appointment panels") for the purpose of giving advice to councils on the suitability of applicants for appointment to the office of clerk and to other offices for which qualifications are**[**F41 determined**]** under section 41 (including the making of a selection of persons who may be treated as eligible for such appointments);

F39(aa) establishing, in such manner as the Staff Commission thinks fit, bodies (to be known as "advisory appointment panels") for the purpose of giving advice to the Executive on the suitability of applicants for appointment to such offices under the Executive as the Department may determine (including the making of a selection of persons who may be treated as eligible for such appointments);]

(b) establishing a code of procedure for securing fair and equal consideration of applications to councils [F39 and to the Executive] by persons seeking to be

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employed by them as officers, and fair and equal treatment of persons who are so employed;

[[F40](bb) monitoring the fair employment practices of councils and their compliance with statutory requirements in relation to fair employment;**]**

(c) assessing the probable future requirements of councils [[F39] and of the Executive] for the recruitment of officers and securing publicity for the opportunities that are available to persons who may seek employment as such officers;

[[F40](cc) establishing and issuing a code of recommended practice as regards the conduct of officers of councils;**]**

(d) promoting co-operation between councils, [[F39] the Executive,] public bodies, government departments and educational institutions in matters connected with the recruitment, training and terms and conditions of employment of officers, and promoting the temporary transfer of officers (with their consent) in pursuance of arrangements made between councils, [[F39] between councils and the Executive,] or between councils [[F39] or the Executive], and any such bodies, departments or institutions;

(e) promoting or assisting the development of, or providing, facilities for the training of officers;

(f) promoting or assisting the establishment of, or establishing, procedures for the negotiation between councils [[F39] the Executive] and officers of councils, [[F39] or of the Executive] or associations representing [[F42] any] of them, of standard rates of remuneration, or other terms and conditions of employment, for officers of councils, [[F39] or of the Executive] and recommending the adoption by councils [[F39] and the Executive] of rates, terms and conditions so negotiated.

(5) Where the Staff Commission makes a recommendation to a council [[F39] or, as the case may be, to the Executive] and the council [[F39] or the Executive] does not comply with the recommendation within such reasonable period as the Staff Commission requires, the Ministry, after consulting the council [[F39] or the Executive] and considering any representations made by it, may give to the council [[F39] or to the Executive] any directions that the Ministry considers necessary or expedient for the implementation of the recommendation, and the council [[F39] or the Executive] shall comply with any such direction within a period of one month or such longer period as the Ministry may allow.

(6) A council [[F39] and the Executive] shall—

(a) make such reports and returns with respect to its officers and their terms and conditions of employment;

(b) furnish such estimates of its probable future requirements for the recruitment of officers; and

(c) give such information with respect to matters connected with the employment of any officer or officers;

to the Staff Commission, within such reasonable period, as the Staff Commission requires.

(7) The provisions of Schedule 3 shall have effect with respect to the Staff Commission.

(8) The Ministry may, by order made subject to affirmative resolution, make provision for modifying the functions of the Staff Commission, and such an order may modify or repeal any provision of this section or Schedule 3.

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F39 1981 NI 3
F40 1992 NI 6
F41 1995 NI 5
F42 1981 NI 3

41 Appointment and qualification of officers.

(1) Every council shall appoint a clerk of the council and shall also appoint such other officers as the council thinks necessary for the efficient discharge of the functions of the council.

(2) A council may appoint a deputy of any officer for the purpose of acting in the place of the officer whenever the office is vacant or the officer is for any reason unable to act.

[[F43](3) A person shall not be appointed to—

(a) the office of clerk of a council; or

(b) such other office under a council as the Department may determine,

unless he possesses such qualifications as the Department may determine.**]**

[[F44](3A) Without prejudice to any code of procedure established by the Staff Commission, a council shall not appoint any officer unless the vacancy in the office is advertised in such manner as**[**[F43] the Department may determine**]**.**]**

(4) A person shall not be appointed to the office of clerk of a council or to any other office for which qualifications are prescribed under subsection (3) except in accordance with the advice of an advisory appointment panel established by the Staff Commission; but this subsection shall not apply to—

Para.(a) rep. by 1985 NI 15

(b) a temporary appointment made with the approval of the Ministry.

(5) Where a council refuses or fails to make an appointment—

(a) from among persons selected by an advisory appointment panel as eligible for the appointment; or

(b) in accordance with directions given by the Ministry for implementing any recommendation made to the council by the Staff Commission[F45]. . .

the Ministry, after consulting the council and considering any representations made by it, may make the appointment on behalf of the council and may, for that purpose, annul any other appointment that has been made by the council.

Subs.(6) rep. by 1995 NI 5

(7) A council shall not, without the approval of the Ministry, remove from office or suspend, or withhold the remuneration of, any officer appointed by the Ministry under subsection (5),[F43]. . . .

(8) If after consultation with any councils the Ministry is satisfied that it is expedient that an order should be made providing for the employment of officers of any class by one of the councils on behalf of both or all of them, the Ministry may make such an order, and the order—

(a) shall require that, before appointing officers of that class, the council by which the officers are to be employed shall consult with the other council or councils to such extent as is provided for in the order;

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[F44(aa) may make provision with respect to the co-ordination of the provision of the service provided by the officers of that class so employed within the districts of the council by which the officers are employed and the other council or councils]

(b) shall provide for the expenses incurred in connection with the employment of the officers to be defrayed by the councils in such proportions as they may agree upon or, in case of disagreement, as may be determined by the Ministry;

[F44(bb) may provide that the other council or councils shall not appoint officers of that class; and]

(c) may contain such incidental and supplemental provisions as the Ministry thinks fit;

F44 . . .

[F44(8A) If the Department is satisfied that it is expedient that officers of any class should not be employed by one of the councils on behalf of both or all of them, the Department may make an order—

(a) transferring officers of that class from the council by which they are employed to such other council or councils as is specified in or determined under the order;

(b) making provision for the protection of the interests of every officer so transferred;

(c) providing for the expenses incurred in connection with the transfer of the employment of the officers to be defrayed by the councils in such proportion as they may agree upon or, in case of disagreement, as may be determined by the Department; and

(d) making such incidental and supplemental provision as the Department thinks fit.

(8B) In subsection (8)(*aa*) "co-ordination" includes—

(a) advising the council by which the officers are employed and the other council or councils on the establishment of the service provided by the officers of that class, including the number of officers to be employed and the qualifications of such officers;

(b) making provision for training of such officers;

(c) issuing advisory circulars and guidelines with respect to statutory provisions or standards of inspection or advising on such circulars and guidelines issued by the Department or district councils;

(d) recording and reporting statistical data and on the enforcement of statutory provisions;

(e) reporting annually to the Department and to the council by which the officers are employed and the other council or councils;

(f) for the purpose of reaching agreement as mentioned in subsection (8)(*b*), making recommendations with respect to the apportionment of the expenses of the council by which the officers are employed in connection with the service provided by officers of that class; and

(g) such other functions or activities as the Department may provide in the order under subsection (8).]

Subs.(9) rep. by 1985 NI 15

F43 1995 NI 5

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F44 1992 NI 6
F45 1985 NI 15

[41A[F46] Appointment of Officers by the Executive.

(1) A person shall not be appointed to such offices under the Executive as the Department may determine except in accordance with the advice of an advisory appointment panel established by the Staff Commission, but this subsection shall not apply to a temporary appointment made with the approval of the Department.

(2) Where the Executive refuses or fails to make an appointment—
  (a) from among persons selected by an advisory appointment panel as eligible for the appointment; or
  (b) in accordance with directions given by the Department for implementing any recommendation made to the Executive by the Staff Commission;

the Department, after consulting the Executive and considering any representations made by it, may make the appointment on behalf of the Executive and may, for that purpose, annul any other appointment that has been made by the Executive.

(3) The Executive shall not, without the approval of the Department, remove from office or suspend, or withhold the remuneration of, any officer appointed by the Department under subsection (2).]

F46 1981 NI 3

[[F47]41B Loans to officers for purchase of motor cars or motor cycles.

A council may make loans to such of its officers and subject to such conditions as the Department, with the approval of the Department of Finance and Personnel, may determine to facilitate such officers in the purchase of motor cars or motor cycles essential to the efficient carrying out of their official duties.**]**

F47 1985 NI 15

42 Councillors not to be appointed officers.

[F48](1) Subject to subsection (2), a person shall, so long as he is and for twelve months after he has ceased to be, a councillor, be disqualified for being appointed by the council to any paid office.

(2) This section shall not apply to the appointment of any person to the office of chairman or sheriff.

(3) In this section—

"council" includes a committee or sub-committee of a council;

"councillor" includes a member of such a committee or sub-committee, whether he is a member of the council or not.

F48 1965 c.13 (NI), 1970 c.9 (NI), 1981 NI 3

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Modifications etc. (not altering text)

C38 S. 42 applied (with modifications) (prosp.) by Justice Act (Northern Ireland) 2011 (c. 24), ss. 20(3), 111(3), **Sch. 1 para. 20** (with s. 106(4))

C39 S. 42 applied (with modifications) (prosp.) by Justice Act (Northern Ireland) 2011 (c. 24), ss. 20(4), 111(3), **Sch. 2 para. 20** (with s. 106(4))

S.43 rep. by 1973 NI 10

44 Retirement of officers.

F49 . . . . . .

F49 S. 44 repealed (1.10.2006) by Employment Equality (Age) Regulations (Northern Ireland) 2006 (S.R. 2006/261), reg. 53(2), **Sch. 8(1)** (with reg. 50)

45 Insurance against default of officers.

(1) A council—

(a) shall in the case of an officer employed by it who by reason of his office or employment is likely to be entrusted with the custody or control of money; and

(b) may in the case of—

(i) any other officer employed by it, or

(ii) any person not employed by it who is likely to be entrusted with the custody or control of money or property belonging to the council;

insure against risks of loss to the council arising from default in the faithful execution of his office or default in his duly accounting for all such money or property entrusted to him.

(2) The instruments evidencing every insurance under subsection (1)(*a*) shall be produced to the auditor at the audit of the accounts of the council.

46 Duty of officers to disclose pecuniary interest.

F50(1) If it comes to the knowledge of an officer of a council that a contract in which he has any pecuniary interest, direct or indirect (not being a contract to which he is himself, openly and in his own name, a party), has been, or is proposed to be entered into by or on behalf of the council he shall as soon as practicable disclose to the council in writing the nature of his interest in that contract.

(2) All disclosures made under subsection (1) (including disclosures made by the clerk himself) shall be brought by the clerk of the council to the notice of the council at the meeting of the council next thereafter occurring and—

(a) it shall be the duty of the council to record in its minutes particulars of the disclosure; and

(b) if the person making the disclosure is present at any meeting of the council at which the contract in respect of which the disclosure was made is under consideration he shall withdraw from that meeting while the contract is being considered and his withdrawal shall be duly recorded in the minutes of the proceedings of that meeting.

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(3) For the purposes of this section subsections (2) and (4) of section 28 shall (without prejudice to any provision of those subsections) apply in relation to the officers of a council as they apply in relation to councillors.

(4) Subject to subsection (5) and without prejudice to section 31 as applied by subsection (9), 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**[**[F51] level 3 on the standard scale**]**.

(5) It shall be a defence for the person charged with an offence under subsection (4) to prove that at the time of the offence—

(a) he did not know and had no reason to believe that the contract or proposed contract 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).

(6) 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, as applied by subsection (9), with respect to any transaction to which that section applies.

(7) Notwithstanding any other transferred provision, a summary prosecution for an offence under subsection (4) may be commenced 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, comes to the knowledge of the Attorney-General.

(8) For the purposes of subsection (7), 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.

(9) Sections 31, 32 and (so far as is applicable for the purposes of those sections) 33 shall apply with respect to officers of a council as they apply with respect to councillors and as if any reference in those sections to a councillor (except the references in subsection (6) of section 31 and, in section 32, the first and third references in subsection (7), and the references in subsections (8) and (9)) included a reference to an officer of the council.

F50 1965 c.13 (NI), 1970 c.9 (NI), 1981 NI 3
F51 1984 NI 3

Modifications etc. (not altering text)

C40 S. 46 applied (with modifications) (prosp.) by Justice Act (Northern Ireland) 2011 (c. 24), ss. 20(3), 111(3), **Sch. 1 para. 20** (with s. 106(4))

C41 S. 46 applied (with modifications) (prosp.) by Justice Act (Northern Ireland) 2011 (c. 24), ss. 20(4), 111(3), **Sch. 2 para. 20** (with s. 106(4))

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47 Prohibition of acceptance of unauthorised fee or reward.

[F52](1) An officer of a council shall not, under colour of his office or employment, exact or accept (whether directly or indirectly for himself or for or through another) any fee or reward whatsoever other than his proper remuneration.

(2) If any person acts in contravention of this section he shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding**[**[F53] level 3 on the standard scale**]**.

(3) In this section "council" includes a committee or sub-committee of a council.

F52 1965 c.13 (NI), 1970 c.9 (NI), 1981 NI 3
F53 1984 NI 3

Modifications etc. (not altering text)
C42 S. 47 applied (with modifications) (prosp.) by Justice Act (Northern Ireland) 2011 (c. 24), ss. 20(3), 111(3), **Sch. 1 para. 20** (with s. 106(4))
C43 S. 47 applied (with modifications) (prosp.) by Justice Act (Northern Ireland) 2011 (c. 24), ss. 20(4), 111(3), **Sch. 2 para. 20** (with s. 106(4))

[[F54]47A Delegation of functions to officers.

(1) A council may arrange for the discharge of any of its functions, except the power of making a rate, or of borrowing money or of acquiring, holding or disposing of land, by an officer of the council and any transferred provision regulating the exercise of a function by a council shall also apply to regulate the exercise of that function by an officer of the council.

(2) Where any functions of a council may be discharged by a committee of the council, then, unless the council otherwise directs, the committee may arrange for the discharge of any of those functions by an officer of the council.

(3) Where any functions of a council may be discharged by a sub-committee of the council, then, unless the council or the committee otherwise directs, the sub-committee may arrange for the discharge of any of those functions by an officer of the council.**]**

F54 1985 NI 15

Modifications etc. (not altering text)
C44 S. 47A excluded (1.4.2006) by Local Government (Northern Ireland) Order 2005 (S.I. 2005/1968 (N.I. 18)), arts. 1(2), 12(7); S.R. 2006/151, **art. 2**, Sch. (with art. 3)
C45 S. 47A excluded (prosp.) by Planning Act (Northern Ireland) 2011 (c. 25), **ss. 79(4)**, 254(1)(2) (with savings in s. 211)

48 Protection for officer acting in execution of duty.

[F55] . . . . . .

F55 S. 48 repealed (1.4.2006) by Local Government (Northern Ireland) Order 2005 (S.I. 2005/1968 (N.I. 18)), arts. 1(2), 28(8), Sch. 1; S.R. 2006/151, **art. 2** (with art. 4)

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49 Officers of joint committee.

Except with the approval of the Ministry, no person who is a full-time officer of a council may be paid any remuneration by a joint committee for acting as an officer of the joint committee.

PART IV

ALTERATIONS OF DISTRICTS

[[F56]50 Local government boundaries

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[[F57](1) The Department shall appoint a Local Government Boundaries Commissioner—

(a) in the year 2008; and

(b) thereafter, during the period not less than 8 or more than 12 years from the date of the submission under subsection (6) of the final report of the last previous Commissioner appointed under this subsection.

(2) The function of a Commissioner appointed under subsection (1)(a) shall be to make recommendations regarding—

(a) the boundaries and names of the 11 districts mentioned in section 1 of the Local Government (Boundaries) Act (Northern Ireland) 2008; and

(b) the number, boundaries and names of the wards into which each district is to be divided.**]**

(3) The function of a Commissioner appointed under subsection (1)(b) shall be to review, and make recommendations regarding —

(a) the number, boundaries and names of local government districts; and

(b) the number, boundaries and names of the wards into which each district is divided.

(4) Where, at a time when no Commissioner stands appointed under subsection (1)–

(a) proposals are made to the Department by a council–

(i) for altering the boundaries of the district of that council, or

(ii) for altering the number of wards into which that district is divided or the boundaries of any of those wards;

(b) proposals are made to the Department by more than one council for the union of the districts of those councils; or

(c) the Department has itself prepared any such proposal as is mentioned in paragraph (a) or (b),

the Department may appoint a Local Government Boundaries Commissioner to consider the proposals and make recommendations.

(5) Part I of Schedule 4 shall have effect with respect to a Local Government Boundaries Commissioner, and such a Commissioner shall—

(a) regulate his procedure in accordance with Part II of that Schedule; and

(b) make his recommendations in accordance with Part III of that Schedule.

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(6) A Local Government Boundaries Commissioner appointed under subsection (1) or (4) shall submit a final report to the Department within such period as the Department may direct.

(7) As soon as may be after a Commissioner appointed under subsection (1)(a) submits his final report, the Department shall lay the report before the Assembly together with the draft of an order to give effect, whether with or without modifications, to the recommendations contained in the report.

(8) If the report of a Commissioner appointed under subsection (1)(b) or (4) recommends any alteration in the number, boundaries or names of any districts or wards, the Department shall, as soon as may be after receiving the report, lay the report before the Assembly together with the draft of an order to give effect, whether with or without modifications, to the recommendations contained in the report.

(9) Where a draft order to be laid before the Assembly under subsection (7) or (8) proposes to give effect to recommendations of a Commissioner with modifications, the Department shall lay before the Assembly, together with the draft order, a statement of the reasons for the modifications.

(10) On the approval of the draft order by a resolution of the Assembly, the Department shall make an order in terms of the draft as so approved.**]**

F56 S. 50 substituted (17.5.2006) by Local Government (Boundaries) (Northern Ireland) Order 2006 (S.I. 2006/1253 (N.I. 8)), arts. 1(2), **4(1)**

F57 S. 50(1)(2) substituted (23.5.2008) by Local Government (Boundaries) Act (Northern Ireland) 2008 (c. 7), **ss. 2(2)**, 5(1)

51 Change of name of district.

(1) The Ministry may, by order made on the application of a council, change the name of the district of the council.

(2) Every change of name made under this section shall be published by the council in such manner as the Ministry directs.

52 Supplemental provisions as to alterations of boundaries or names.

(1) Where the **[**[F58]Department**]** makes an order under section 50, the Ministry may make a supplemental order (in this section referred to as "the order") which may contain such incidental, consequential, transitional or supplemental provisions as appear to be necessary or expedient for the general or any particular purposes of the order under section 50 or in consequence of any of the provisions thereof or for giving full effect thereto, and without prejudice to the generality of the foregoing provisions of this subsection may in particular include provision—

(a) for modifying or repealing any transferred provision (including such a provision contained in or made under a local or personal Act or an Act confirming a provisional order);

(b) for the transfer, application, defrayal, apportionment or adjustment (by agreement or otherwise) of assets, liabilities, income and costs and for the continuance of, or of functions of, any council or public body, and the continuance in office of any councillor or officer (including the continuance

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in office of any member or officer of a dissolved council, as if the council had not been dissolved), for the purposes of such transfer, application, defrayal, apportionment or adjustment or for the purposes of the making up and audit of accounts and any proceedings in connection therewith or consequent thereupon;

(c) for the transfer of any writ, process, record or document relating to or to be executed in any part of a district affected by the order under section 50, and for determining questions arising from such transfer;

(d) for the determination of questions arising under the order.

(2) The order may make provision for the transfer of existing officers affected by the order under section 50 and shall contain provisions for the protection of the interests of any such existing officers.

(3) The order may make provision for the payment, on such terms and subject to such conditions as may be specified in the order, of compensation to or in respect of any officer of a council who suffers loss of employment or loss or diminution of emoluments (including superannuation rights) which is attributable to the order under section 50, and may in particular—

(a) include provision as to the funds out of which and the councils by which compensation is to be defrayed;

(b) include provision as to the manner in which and the time within which and the person to whom any claim for compensation is to be made;

(c) apply for the purposes of the order any transferred provision relating to the payment of compensation subject to the modifications (if any) specified in the order.

(4) The order may make provision for the **[**[F59]Department**]** to appoint the day or days on which the order, or any provision of it, is to come into operation.

(5) Stamp duty shall not be chargeable on the order or on any instrument executed for the purposes of giving effect to the order.

(6) A certificate issued by the Ministry that any property has been transferred by virtue of the order shall, until the contrary is shown, be accepted as evidence of that fact.

(7) A change of name of a council shall not affect any rights or obligations of the council or any other person, or render defective any legal proceedings, and—

(a) any legal proceedings may be commenced or continued as if there had been no change of name;

(b) every reference in any transferred provision, record, document or map to the former name of the council shall be construed as a reference to the new name.

(8) Where the name of a district which is a borough is changed, the charter of the borough shall have effect as if the new name were substituted for the old.

(9) Where the order includes provision for modifying or repealing a transferred provision (except a provision contained in or made under a local or personal Act or an Act confirming a provisional order) it shall be subject to affirmative resolution.

F58 Word in s. 52(1) substituted (17.5.2006) by Local Government (Boundaries) (Northern Ireland) Order 2006 (S.I. 2006/1253 (N.I. 8)), arts. 1(2), **5(2)(a)**

F59 Word in s. 52(4) substituted (17.5.2006) by Local Government (Boundaries) (Northern Ireland) Order 2006 (S.I. 2006/1253 (N.I. 8)), arts. 1(2), **5(2)(a)**

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PART V

FINANCIAL PROVISIONS

Modifications etc. (not altering text)

C46 Pt. V (ss. 53 - 89A) applied (with modifications) by S.R 2004/49, art. 3 (as substituted (28.1.2008) by Local Government (Constituting a Joint Committee a Body Corporate) (Amendment) Order (Northern Ireland) 2007 (S.R. 2007/505), **art. 2(3)**)

C47 Pt. V (ss. 53-89A) applied (with modifications) (20.8.2008) by Local Government (Constituting a Joint Committee a Body Corporate) Order (Northern Ireland) 2008 (S.R. 2008/310), **art. 3(3)**

ANNUAL BUDGET AND FINANCIAL ARRANGEMENTS

53 Annual budget.

(1) In each financial year a council shall cause to be submitted to it estimates of the income and expenditure of the council during the next-following financial year.

(2) A council, before the prescribed date in each year,—

(a) shall consider the estimates for the next-following financial year;

(b) may revise the estimates in such manner as the council thinks fit;

(c) shall approve the estimates, subject to any revision under paragraph (*b*);

(d) shall authorise the expenditure included in the estimates; and

(e) shall fix for the next-following financial year the amount estimated to be required to be raised by means of a rate made by the council.

(3) No expenditure shall be incurred by or on behalf of a council unless—

(a) previously authorised in accordance with the estimates approved by the council; or

(b) otherwise previously authorised by the council; or

(c) if not so authorised, necessarily incurred in circumstances of emergency;

but any expenditure under paragraph (*c*) shall, as soon as reasonably practicable, be reported to the council with a view to being approved by the council.

(4) A council may make standing orders for the purpose of giving effect to this section so long as such orders are not inconsistent with any statutory provision.

54 Arrangements for handling receipts and payments.

A council shall make safe and efficient arrangements for the receipt of money paid to it and the issue of money payable by it, and those arrangements shall be carried out under the supervision of such officer of the council as the council designates as its chief financial officer.

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FUNDS

55 The district fund.

Subject to sections 56 to 58, all income of a council shall be carried to a fund to be called the "district fund" , and all expenditure falling to be discharged by the council shall be discharged out of that fund.

56 Power to establish capital fund and renewal and repairs fund.

(1) Subject to the provisions of this Act, a council may, in addition to the district fund, establish either or both of the following funds—

(a) a capital fund, to be used either for defraying any expenditure of the council to which capital is properly applicable, or for providing money for repayment of loans (but not in making any annual payment required to be made in respect of loans);

(b) a renewal and repairs fund, to be used for the purpose of defraying expenditure to be incurred in repairing, maintaining, replacing and renewing any buildings, works, plant, equipment or articles belonging to the council.

(2) A fund established by a council under this section shall not be used to meet, directly or indirectly, any expenditure incurred by the council for the purposes of a public utility undertaking.

(3) Pending the application, for the purposes authorised by this section, of any fund established by a council under this section, the money in the fund shall (unless applied in any other manner authorised by section 73) be invested

[[F60](a) if regulations so provide, in such manner as may be prescribed;

(b) in any other case, in any investments in which trustees may invest under—

(i) the general power of investment in section 3 of the Trustee Act (Northern Ireland) 2001 (as restricted by sections 4 and 5 of that Act); or

(ii) section 8(1)(a) of that Act (land).**]**

[[F60](3A) Any money invested in accordance with subsection (3)(b) immediately before the coming into operation of regulations under subsection (3)(a) shall, for the period of 6 months from the coming into operation of those regulations, be taken to have been invested in accordance with those regulations.**]**

(4) Any income arising from the investment of the money in any such fund, or otherwise from the application of the fund, shall be carried to the fund.

F60 2001 c. 14 (NI)

57 Capital fund.

(1) Subject to the provisions of this section, a council by which a capital fund is established under section 56 may, with the approval of the Ministry, pay into that fund—

(a) any sums derived from the sale of any asset held by the council, not being an asset held by it for the purposes of a public utility undertaking;

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(b) the whole or any part of the surplus of the income of the district fund over the expenditure of that fund at the end of each financial year, except so far as required by law to be applied to or carried forward for any other purpose; and

(c) such other sums from the district fund as the council directs.

(2) The aggregate amount paid by a council into the capital fund under subsection (1)(*b*) and (*c*) shall not exceed such sum as the Ministry determines in relation to that council.

(3) Except as permitted by section 73, no money shall be applied by a council out of the capital fund without the approval of the Ministry.

58 Renewal and repairs fund.

(1) Subject to the provisions of this section, a council by which a renewal and repairs fund is established under section 56 may with the approval of the Ministry pay into that fund from the district fund such sums as the council thinks fit.

(2) No payment shall be made by a council into the renewal and repairs fund so as to make the fund exceed such sum as the Ministry in relation to that council determines.

59 Proceeds of sale of capital assets.

Any capital money derived from the sale of any asset held by a council shall be applied towards the repayment of any money borrowed by the council for the purpose of acquiring that asset or, with the approval of the Ministry, be applied for any purpose to which capital is properly applicable.

60 Limitation on application of funds.

A council shall not directly or indirectly apply any part of the district fund, or any money under its control, for any purpose not authorised specifically or generally by some statutory provision, or, in the case of money derived from trust funds, for any purpose not authorised by the specific trusts affecting those funds.

BORROWING

61 Purposes for which money may be borrowed.

(1) Without prejudice to subsections (2) and (4) and section 68(1), where the Ministry is satisfied that, by reason of the nature of the expenditure incurred or to be incurred by a council in the excercise of any of its functions, the expenditure should be met by borrowing and repayment spread over a term of years, then the council may borrow on such terms and conditions (including conditions as to time and manner of repayment) as the Ministry approves.

(2) A council may borrow without the approval of the Ministry, by way of temporary loan or overdraft from a bank or otherwise, any sum which the council temporarily requires—

(a) for the purpose of defraying expenses (including the payment of sums due by the council to meet the expenses of other bodies) pending the receipt of

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revenues receivable by the council in respect of the financial year in which those expenses are chargeable;

(b) for the purpose of defraying, pending the raising of a loan which the council has been authorised under subsection (1) to raise, expenses intended to be defrayed by means of the loan.

(3) Where money is borrowed in pursuance of paragraph (*b*) of subsection (2) and subsequently a loan such as is mentioned in that paragraph is raised, then for the purposes of any approval regulating the period of the repayment of that loan, the loan shall, to the extent of the sum borrowed under that paragraph, be deemed to have been raised at the time when the borrowing under that paragraph took place.

(4) A council may also borrow without the approval of the Ministry such sums as are necessary in order to provide working capital or to meet any other expenditure (not being expenditure of a capital nature) required for the purposes of any public utility undertaking carried on by the council; but—

(a) the total sums borrowed under this subsection and for the time being outstanding shall not, except with the approval of the Ministry, exceed an amount representing one-half of the gross revenue of the undertaking for the immediately preceding financial year;

(b) any sum borrowed under this subsection to defray expenditure shall be repaid as soon as reasonably practicable and in any event not later than the expiration of two years from the date of borrowing, unless the approval of the Ministry is obtained to the repayment being spread over a longer period.

Para.(5) rep. by 1991 NI 6

62 Modes of borrowing.

Where, under section 61, a council has power to borrow money, it may, subject to the provisions of this Act, raise the money by any of the following methods—

(a) by mortgage;

(b) by the issue of stock;

(c) by the issue of bonds;

(d) by overdraft from a bank;

(e) by temporary loan or deposit receipt;

(f) by the use, in accordance with section 73, of any money forming part of a capital fund or renewal and repairs fund established by the council under section 56;

(g) by means of an agreement with the Ministry of Finance for the advance of money out of the Government Loans Fund;

(h) by any other method prescribed with the approval of the Ministry of Finance.

63 Security for borrowing.

(1) Without prejudice to subsection (2) and subject to subsection (4), all money borrowed by a council and all interest payable in respect of such money shall be charged on all the funds, rates and revenues of, or applicable for the purposes of, the council.

(2) Subsection (1) shall not affect any duty of a council, where money is borrowed for any purpose expenditure for which would, apart from that subsection, be debited against

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a particular account, to take care that sums payable in respect of that borrowing are so debited.

(3) References in this section and sections 64, 65 and 68 to money borrowed by a council, and references in sections 66 and 67 to a sum so borrowed, include a reference to any sum which was borrowed by some other body and which the council, in consequence of a transfer of functions or otherwise, has become liable to repay to the lenders, but does not include a reference to any sum borrowed by the council where the liability for repayment to the lenders has, in consequence of a transfer of functions or otherwise, been transferred to some other body; and references in sections 64, 70 and 71 to securities created by a council shall be construed accordingly.

(4) The foregoing provisions of this section shall not apply in respect of money borrowed by a council for the purposes of any trust under a deed, will or other document, nor shall the security created by those provisions include the funds held under any such trust.

64 Priority of securities.

(1) Subject to subsection (2), all securities created by a council shall rank equally without any priority.

(2) Nothing in this section shall affect any priority existing at, or any right to priority conferred by a security created before, 13th December 1949.

(3) For the purposes of this section a right in respect of money borrowed by a council by any of the methods mentioned in section 62 shall be deemed to be a security, notwithstanding that it is not evidenced in writing.

65 Repayment of money borrowed.

(1) Subject to section 66, money borrowed by a council (other than money borrowed under section 61(2)(*a*) pending the receipt of revenues) shall be paid off either—

(a) by equal yearly or half-yearly instalments of principal, or of principal and interest combined; or

(b) by means of a sinking fund;

or partly by one of those methods and partly by another or others of them.

(2) Where the money is to be paid off as mentioned in subsection (1)(*a*), the payment of the first instalment shall be made within twelve months or, where the money is repayable by half-yearly instalments, within six months from the date of borrowing.

(3) The provisions of Schedule 5 shall apply with respect to sinking funds.

66 Power to suspend annual provision for repayment of, and to borrow for payment of interest on, certain borrowed money.

(1) Where a sum is borrowed by a council for any of the following purposes—

(a) meeting expenditure on the construction of new, or the extension or alteration of existing, works forming or to form part of an undertaking of a revenue-producing character;

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(b) carrying out on any land any other operations, being operations of such kind as may be prescribed by the Ministry or operations specified in relation to that land by direction of the Ministry;

(c) acquiring land for the purpose of the construction thereon of new, or the extension or alteration of existing, works forming part of or to form part of an undertaking of a revenue-producing character, or for the purpose of the carrying out thereon of operations of a kind prescribed by virtue of paragraph (*b*), or operations specified in relation to that land by direction of the Ministry;

the council may in respect of such one period as it determines, not being longer than five years nor beginning five years or less before the expiration of the fixed period relevant to the sum borrowed, do either or both of the following things with the approval of the Ministry—

(i) suspend, in whole or in part, any annual provision required to be made during the first-mentioned period for the repayment of the sum borrowed;

(ii) borrow money for the payment of all or any of the interest due in respect of the first-mentioned period on the sum borrowed.

(2) Where—

(a) land is acquired by a council; and

(b) a sum is borrowed by the council for the purpose of the acquisition; and

(c) the acquisition is not for the purpose of the construction on the land of new, or for the extension or alteration of existing, works forming or to form part of an undertaking of a revenue-producing character, or for the purpose of carrying out on the land operations of a kind prescribed by virtue of subsection (1)(b) or operations specified in relation to that land by direction of the Ministry; and

(d) the land is subsequently appropriated for a purpose mentioned in paragraph (*c*);

the council may in respect of such one period as it determines, not being longer than five years nor beginning five years or less before the expiration of the fixed period relevant to the sum borrowed, do either or both of the following things with the approval of the Ministry—

(i) suspend, in whole or in part, any annual provision required to be made during the first-mentioned period for the repayment of the sum borrowed;

(ii) borrow money for the payment of all or any of the interest due in respect of the first-mentioned period on the sum borrowed.

(3) A sum borrowed by virtue of paragraph (ii) of subsection (1) or (2) for the payment of interest on a sum borrowed shall be repaid within the fixed period relevant to the last-mentioned sum.

(4) In this section—

"the fixed period" means the period originally fixed as the period within which the money borrowed is to be repaid;

"undertaking" means an undertaking in the nature of a trading undertaking for the provision of any service which the council is authorised to undertake.

67 Application of unexpended portion of borrowed money.

The balance of any money borrowed by a council and not required for the purposes for which the money was borrowed may be applied—

(a) in or towards the repayment of a sum borrowed by the council; or

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(b) with the approval of the Ministry, to any other purpose to which capital money may be applied.

68 Power to re-borrow.

(1) Subject to subsection (2), a council may, without the approval of the Ministry, borrow for the purpose of—

(a) paying off any money previously borrowed by the council which is intended to be repaid forthwith; or

(b) replacing money which, during the immediately preceding year, has been temporarily applied from other money of the council in repaying money previously borrowed and which, at the time of such repayment, it was intended to replace by borrowed money.

(2) A council shall not borrow under this section—

(a) for the purpose of making any payment to a sinking fund or of paying any instalment which has or may become due in respect of borrowed money; or

(b) for the purpose of replacing any money previously borrowed which has been repaid—

(i) by instalments; or

(ii) by means of a sinking fund; or

(iii) out of money derived from the sale of land; or

(iv) out of any capital money properly applicable to the purpose of the repayment, other than money borrowed for that purpose.

(3) Any money borrowed under this section shall, for the purposes of repayment be deemed to form part of the original loan, and shall be repaid within that portion of the fixed period which remains unexpired, and the provisions which are applicable to the original loan shall apply to the money borrowed under this section, so however that the Ministry may, upon application made to it for that purpose, extend the period for repayment of the money borrowed under this section so as to expire on such date as the Ministry thinks fit.

(4) In this section "the fixed period" has the same meaning as in section 66.

69 Lenders relieved from certain inquiries.

Without prejudice to section 19(1)(*a*)(ii) of the Interpretation Act (Northern Ireland) 1954 , a person lending money to a council shall not be bound to inquire whether the borrowing of the money is or was legal or regular or whether the money was properly applied, and shall not be prejudiced by any illegality or irregularity in the matters aforesaid or by the misapplication or non-application of any such money.

70 Securities regulations.

(1) For the purposes of any borrowing by a council by means of securities created by the council, the securities shall be created, issued, transferred, dealt with and redeemed upon such terms and in accordance with such provisions as may be prescribed.

(2) Without prejudice to the generality of subsection (1), regulations may contain provisions with respect to—

(a) the form and terms of securities;

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(b) the keeping of registers of securities, the form of the registers and the matters which must or must not be entered therein, the evidence which must be produced by persons seeking to have entries made in the registers, the form of transfer of securities, the rectification of the registers, rights of inspection and fees;

(c) the determination of questions affecting title to securities;

(d) the discharge of loans raised by means of securities;

(e) the extension or variation, with the consent of the holders of securities, of the times within which such loans may be discharged;

(f) the consent of owners under disability;

(g) the disposal of unclaimed interest;

(h) the duties of officers of the council in connection with the issue or discharge of securities or any register of securities;

[[F61](hh) the custody and, where appropriate, eventual destruction of documents relating to securities;**]**

(i) the penalties, not exceeding a fine of**[**[F62] level 3 on the standard scale**]** on summary conviction, which may be imposed for contraventions of the regulations.

(3) In this section "security" means mortgage, stock or bond, or any prescribed security created in connection with the borrowing of money by a method prescribed under section 62(*h*).

F61 1985 NI 15
F62 1984 NI 3

71 Appointment of receiver.

(1) If at any time any sums due by way of principal or interest or both on any security created by a council remain unpaid for not less than two months after demand made in writing in that behalf is served on the council, the person entitled to the security may, without prejudice to any other remedy, apply to the High Court for the appointment of a receiver, and the Court may appoint a receiver on such terms and with such functions as the Court thinks fit.

(2) The Court may confer upon the receiver any powers of the council or its officers of collecting, receiving and recovering the revenues of the council, and of making rates.

(3) A receiver appointed under this section shall have such access to and use of the books and documents of the council or any of its committees as he requires.

(4) In this section "security" means mortgage, stock or bond, or any prescribed security created in connection with the borrowing of money by a method prescribed under section 62(*h*).

72 Consolidated loans fund.

(1) A council may, in accordance with a scheme made by the council and approved by the Ministry, establish and operate a consolidated loans fund for defraying any expenditure which may be met by borrowing under section 61 and for the repayment or redemption of debt.

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(2) A scheme under this section may make provision—

(a) as to the purposes for which payments are to be authorised or required to be made out of the fund;

(b) as to the assets and liabilities which are to be authorised or required to be transferred to or paid into the fund;

(c) without prejudice to the generality of paragraphs (*a*) and (*b*), applying section 73 with the necessary modifications and for securing that payments will be made to the fund of such amounts and at such times as are necessary for fulfilling the obligations of the council to repay loans and to pay interest on loans and for defraying the management expenses of the fund;

(d) for the keeping of separate accounts of receipts and outgoings of the fund determined by the scheme to be of a capital and of an income nature respectively, and of expenditure in connection with the management of the fund;

(e) as to the investment of assets of the fund which are for the time being not required for other purposes, or their application in the repayment or redemption of debt.

73 Use of money forming part of capital fund or renewal and repairs fund.

(1) Subject to the conditions set out in subsection (2), a council may use, for any purpose for which the council has power to borrow, any money forming part of, but not for the time being required for the purposes of, any capital fund or renewal and repairs fund established by the council.

(2) The conditions on which money may be used as mentioned in subsection (1) are as follows—

(a) where the power to borrow depends on the approval of the Ministry, the money shall be used only with that approval and subject to such conditions as are approved by the Ministry;

(b) where the money is used for a temporary purpose, it shall be used subject to any limitations which by virtue of paragraph (*a*) or (*b*) of section 61(2) affect temporary borrowing;

(c) the money shall be repaid to the fund as and when it is required for the purposes of the fund, if it is not required to be paid earlier by virtue of any conditions such as are mentioned in paragraph (*a*) or any limitations such as are mentioned in paragraph (*b*);

(d) the money shall be repaid to the fund out of the district fund, or out of money which would have been applicable to the repayment of a loan raised under the power to borrow, and shall be made by the method by which a loan raised under the power would be repayable;

(e) in the accounts of the district fund, an amount equal to interest at the appropriate rate on so much of the money as has not been repaid to the capital fund or the renewal and repairs fund shall be credited to the capital fund or, as the case requires, the renewal and repairs fund and debited to the undertaking or purpose for which the money has been so used;

(f) the power to borrow shall be deemed to be exercised by the use of money under this section as fully in all respects as if a loan of the same amount had been raised in exercise of the power, and the provisions of section 68 as to the re-borrowing of sums raised under that power shall apply accordingly.

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(3) In this section "interest at the appropriate rate" means interest at such rate as may be determined by the council to be equal as nearly as may be to the rate of interest which would be payable on a loan raised on mortgage under the power to borrow.

LOCAL GOVERNMENT AUDITORS

74 Local government auditors.

F63 . . . . . .

F63 Ss. 74-89A repealed (1.4.2006) by Local Government (Northern Ireland) Order 2005 (S.I. 2005/1968 (N.I. 18)), arts. 1(2), 28(8), Sch. 1; S.R. 2006/151, **art. 2** (with art. 4)

75 Audit Fees

F64 . . . . . .

F64 Ss. 74-89A repealed (1.4.2006) by Local Government (Northern Ireland) Order 2005 (S.I. 2005/1968 (N.I. 18)), arts. 1(2), 28(8), Sch. 1; S.R. 2006/151, **art. 2** (with art. 4)

AUDIT

76 Audit of accounts of councils.

F65 . . . . . .

F65 Ss. 74-89A repealed (1.4.2006) by Local Government (Northern Ireland) Order 2005 (S.I. 2005/1968 (N.I. 18)), arts. 1(2), 28(8), Sch. 1; S.R. 2006/151, **art. 2** (with art. 4)

77 Duties of officers as to audit.

F66 . . . . . .

F66 Ss. 74-89A repealed (1.4.2006) by Local Government (Northern Ireland) Order 2005 (S.I. 2005/1968 (N.I. 18)), arts. 1(2), 28(8), Sch. 1; S.R. 2006/151, **art. 2** (with art. 4)

77A Confidentiality of officers' records.

F67 . . . . . .

F67 Ss. 74-89A repealed (1.4.2006) by Local Government (Northern Ireland) Order 2005 (S.I. 2005/1968 (N.I. 18)), arts. 1(2), 28(8), Sch. 1; S.R. 2006/151, **art. 2** (with art. 4)

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78 Production of, and declaration as to, documents.

F68 . . . . . .

F68 Ss. 74-89A repealed (1.4.2006) by Local Government (Northern Ireland) Order 2005 (S.I. 2005/1968 (N.I. 18)), arts. 1(2), 28(8), Sch. 1; S.R. 2006/151, **art. 2** (with art. 4)

79 Right to objection.

F69 . . . . . .

F69 Ss. 74-89A repealed (1.4.2006) by Local Government (Northern Ireland) Order 2005 (S.I. 2005/1968 (N.I. 18)), arts. 1(2), 28(8), Sch. 1; S.R. 2006/151, **art. 2** (with art. 4)

80 Auditor's report.

F70 . . . . . .

F70 Ss. 74-89A repealed (1.4.2006) by Local Government (Northern Ireland) Order 2005 (S.I. 2005/1968 (N.I. 18)), arts. 1(2), 28(8), Sch. 1; S.R. 2006/151, **art. 2** (with art. 4)

SURCHARGE, ETC.

81 Declaration that item of account is unlawful.

F71 . . . . . .

F71 Ss. 74-89A repealed (1.4.2006) by Local Government (Northern Ireland) Order 2005 (S.I. 2005/1968 (N.I. 18)), arts. 1(2), 28(8), Sch. 1; S.R. 2006/151, **art. 2** (with art. 4)

82 Recovery of amount not accounted for, etc.

F72 . . . . . .

F72 Ss. 74-89A repealed (1.4.2006) by Local Government (Northern Ireland) Order 2005 (S.I. 2005/1968 (N.I. 18)), arts. 1(2), 28(8), Sch. 1; S.R. 2006/151, **art. 2** (with art. 4)

82A Power of auditor to issue prohibition order.

F73 . . . . . .

F73 Ss. 74-89A repealed (1.4.2006) by Local Government (Northern Ireland) Order 2005 (S.I. 2005/1968 (N.I. 18)), arts. 1(2), 28(8), Sch. 1; S.R. 2006/151, **art. 2** (with art. 4)

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82B Effect of and appeals against prohibition orders.

F74 . . . . . .

F74 Ss. 74-89A repealed (1.4.2006) by Local Government (Northern Ireland) Order 2005 (S.I. 2005/1968 (N.I. 18)), arts. 1(2), 28(8), Sch. 1; S.R. 2006/151, **art. 2** (with art. 4)

82C Supplementary provisions as to prohibition orders.

F75 . . . . . .

F75 Ss. 74-89A repealed (1.4.2006) by Local Government (Northern Ireland) Order 2005 (S.I. 2005/1968 (N.I. 18)), arts. 1(2), 28(8), Sch. 1; S.R. 2006/151, **art. 2** (with art. 4)

82D Power of auditor to apply for judicial review.

F76 . . . . . .

F76 Ss. 74-89A repealed (1.4.2006) by Local Government (Northern Ireland) Order 2005 (S.I. 2005/1968 (N.I. 18)), arts. 1(2), 28(8), Sch. 1; S.R. 2006/151, **art. 2** (with art. 4)

FUNCTIONS OF MINISTRY AS TO ACCOUNTS AND AUDIT

87 Regulations as to accounts and audit.

F77 . . . . . .

F77 Ss. 74-89A repealed (1.4.2006) by Local Government (Northern Ireland) Order 2005 (S.I. 2005/1968 (N.I. 18)), arts. 1(2), 28(8), Sch. 1; S.R. 2006/151, **art. 2** (with art. 4)

88 Extraordinary audits and inspections.

F78 . . . . . .

F78 Ss. 74-89A repealed (1.4.2006) by Local Government (Northern Ireland) Order 2005 (S.I. 2005/1968 (N.I. 18)), arts. 1(2), 28(8), Sch. 1; S.R. 2006/151, **art. 2** (with art. 4)

S.89 rep. by 1992 NI 6

[F79 STUDIES FOR IMPROVING ECONOMY, ETC. OF SERVICES]

F79 1985 NI 15

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89A Studies for improving economy, etc. of services.

F80 . . . . . .

F80 Ss. 74-89A repealed (1.4.2006) by Local Government (Northern Ireland) Order 2005 (S.I. 2005/1968 (N.I. 18)), arts. 1(2), 28(8), Sch. 1; S.R. 2006/151, **art. 2** (with art. 4)

PART VI F81

BYE-LAWS

F81 1965 c.13 (NI), 1981 NI 1

90 Bye-laws.

A council may make bye-laws in accordance with the succeeding provisions of this Part—

(a) for the good rule and government of the whole or any part of its district;

(b) for the prevention and suppression of nuisances in its district;

(c) for any purpose for which bye-laws may be made by it under any other transferred provision.

91 Procedure, etc., for making bye-laws.

(1) Bye-laws shall be made under the common seal of the council and shall not have effect until they are confirmed by the Ministry concerned.

(2) At least one month before application for confirmation of bye-laws is made, notice of the intention to apply for confirmation shall be given in at least two newspapers circulating in the locality in which the area to which the bye-laws are to apply is situated.

(3) For at least one month before application for confirmation is made, a copy of the bye-laws shall be deposited at the offices of the council by which the bye-laws are made, and shall at all reasonable hours be open to public inspection without payment.

(4) The council by which the bye-laws are made shall, on application, furnish to any person a copy of the bye-laws, or of any part thereof, on payment of such reasonable sum as the council determines.

(5) The Ministry concerned may confirm any bye-law submitted under this section for confirmation, subject to the consents (if any) required by section 9(2) of the Northern Ireland (Miscellaneous Provisions) Act 1932 , or may refuse to confirm any such bye-law.

(6) Where a bye-law is to have effect in the district of a council other than the council by which it is made, the Ministry concerned shall consult that other council before confirming the bye-law.

(7) The Ministry concerned may fix the date on which a bye-law is to come into operation, and if no date is so fixed the bye-law shall come into operation at the expiration of one month from the date of its confirmation.

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(8) A copy of the bye-laws, when confirmed, shall be printed and deposited at the offices of the council by which the bye-laws are made, and shall at all reasonable hours be open to public inspection without payment, and a copy thereof shall, on application, be furnished to any person on payment of such reasonable sum as the council determines.

Modifications etc. (not altering text)

C48 Ss. 91-94 applied (with modifications) (9.6.2010) by River Bann Navigation Order (Northern Ireland) 2010 (S.R. 2010/126), arts. 1(1), **3(2)**

92 Penalties for contravention of bye-laws.

(1) **[**[F82]Except as provided by any other statutory provision,**]** a person who contravenes a bye-law shall be guilty of an offence and, subject to subsection (2), shall be liable on summary conviction to a fine not exceeding**[**[F83] level 2 on the standard scale**]** and, in the case of a continuing offence, a further fine not exceeding £2 for each day on which the offence continues after conviction.

(2) Bye-laws may, for offences under subsection (1) in relation to the bye-laws, fix lower maximum fines than the sums mentioned in that subsection, or, if power to fix higher maximum fines than those sums is conferred by the transferred provision conferring the power to make the bye-laws, may fix maximum fines exceeding those sums but not exceeding the higher maxima.

(3) Proceedings in respect of an offence under subsection (1) shall not, without the consent of the Attorney-General, be taken by any person other than the council by which, or by whose predecessors, the bye-law in question was made.

F82 1985 NI 15
F83 1984 NI 3

Modifications etc. (not altering text)

C49 Ss. 91-94 applied (with modifications) (9.6.2010) by River Bann Navigation Order (Northern Ireland) 2010 (S.R. 2010/126), arts. 1(1), **3(2)**

[F84]93 Enforcement of bye-laws.

(1) An officer of a council who is authorised by the council in that behalf**[**[F85] or a constable**]**, may secure the observance of bye-laws made by the council.

(2) An officer exercising powers conferred under this section, unless in uniform, shall, on request, produce some document showing that he is authorised by the council to exercise those powers.

(3) For the purposes of this section,**[**[F86] section 66 of the Police (Northern Ireland) Act 1998**]** (assault on, and obstruction of, constables, etc.) shall have effect in relation to a person authorised as mentioned in subsection (1) as if he were a constable.

F84 1973 NI 12; 1981 NI 14; 1986 NI 25
F85 1992 NI 6
F86 1998 c. 32

Status: *Point in time view as at 01/07/2008.*
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Modifications etc. (not altering text)

C50 Ss. 91-94 applied (with modifications) (9.6.2010) by River Bann Navigation Order (Northern Ireland) 2010 (S.R. 2010/126), arts. 1(1), **3(2)**

94 Evidence of bye-laws.

(1) The production of a printed copy of a bye-law purporting to be made by a council, upon which is endorsed a certificate purporting to be signed by the clerk of the council stating—

(a) that the bye-law was made by the council;

(b) that the copy is a true copy of the bye-law;

(c) that on a specified date the bye-law was confirmed by the government department named in the certificate or was so confirmed subject to any specified consents;

(d) the date, if any, fixed by the Ministry concerned for the coming into operation of the bye-law;

shall be evidence of the facts stated in the certificate, and without proof of the handwriting or official position of any person purporting to sign a certificate in pursuance of this section.

(2) The validity of a bye-law which has been confirmed by a government department shall not be questioned in any legal proceedings on the ground that that department is not the Ministry concerned.

Modifications etc. (not altering text)

C51 Ss. 91-94 applied (with modifications) (9.6.2010) by River Bann Navigation Order (Northern Ireland) 2010 (S.R. 2010/126), arts. 1(1), **3(2)**

PART VII

MISCELLANEOUS FUNCTIONS

LAND

95 Provisions of offices, halls, etc.

(1) A council may provide and maintain offices, halls or other buildings to be used for the purpose of transacting the business of the council or for public meetings, assemblies or entertainments.

(2) A council may acquire land otherwise than by agreement for the purposes of this section.

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Modifications etc. (not altering text)

C52 Ss. 95 - 98 applied by S.R 2004/49, art. 5 (as inserted (28.1.2008) by Local Government (Constituting a Joint Committee a Body Corporate) (Amendment) Order (Northern Ireland) 2007 (S.R. 2007/505), **art. 2(5)**)

C53 Ss. 95-98 applied (20.8.2008) by Local Government (Constituting a Joint Committee a Body Corporate) Order (Northern Ireland) 2008 (S.R. 2008/310), **art. 5**

96 Acquisition, etc., of land.

(1) The purposes for which a council may acquire and hold land shall include—

(a) the benefit of the inhabitants of its district;

(b) the improvement, development or future development of its district;

and for the purposes of section 19(1)(*a*)(iv) of the Interpretation Act (Northern Ireland) 1954 and any other transferred provision those purposes shall be deemed to be included among the purposes for which the council is constituted.

(2) The right of a council to acquire land may be exercised, notwithstanding that the land is not immediately required for any of the purposes for which the council is constituted; but the council shall not exercise that right by virtue of this subsection otherwise than with the approval of the Ministry.

(3) Section 127 (disposal of superfluous lands) of the Lands Clauses Consolidation Act 1845 shall not apply with respect to any acquisition of land by a council, and sections 128 to 131 of that Act (right of pre-emption of former owners) shall not apply with respect to any land acquired by a council by agreement.

(4) Without prejudice to section 63(1), so much of section 19(1)(*a*)(iv) of the Interpretation Act (Northern Ireland) 1954 as confers a right to charge property shall not apply to a council.

(5 [F87] The right of a council to dispose of land shall be subject to the following restrictions—

(a) except with the approval of the Ministry, any disposal of land shall be at the best price or for the best rent or otherwise on the best terms that can be reasonably obtained;

(b) any disposal of land which has been acquired otherwise than by agreement shall be subject to the right of pre-emption conferred by sections 128 to 131 of the Lands Clauses Consolidation Act 1845.

(6) Subject to subsections (7) and (8), a council may appropriate land held by it to any purpose for which it has the right to acquire land.

(7 [F88] Where land has been acquired by a council otherwise than by agreement for any purpose, the council shall not appropriate it to any other purpose unless the appropriation is approved by the Ministry.

(8) Subsection (6) shall not authorise a council to fail to observe and perform any covenant or condition subject to which a gift or lease of any land has been accepted or made, without the consent of the donor, grantor, lessor or other person entitled in law to the benefit of the covenant or condition.

F87 1972 NI 20; 1992 NI 3

F88 1972 NI 20

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Modifications etc. (not altering text)

C54 Ss. 95 - 98 applied by S.R 2004/49, art. 5 (as inserted (28.1.2008) by Local Government (Constituting a Joint Committee a Body Corporate) (Amendment) Order (Northern Ireland) 2007 (S.R. 2007/505), **art. 2(5)**)

C55 Ss. 95-98 applied (20.8.2008) by Local Government (Constituting a Joint Committee a Body Corporate) Order (Northern Ireland) 2008 (S.R. 2008/310), **art. 5**

97 Acquisition of land otherwise than by agreement.

(1) Where a council desires to acquire land otherwise than by agreement for any purpose for which it is authorised by a transferred provision so to acquire land, it may apply to the Ministry concerned for an order (in this Act referred to as a "vesting order") vesting the land in the council, and that Ministry may make a vesting order.

(2) The provisions of Schedule 6 shall apply with respect to the making and effect of vesting orders.

(3 [F89] The power to make a vesting order may be exercised over land—

(a) which is the property of any public body which has power under any transferred provision to acquire land compulsorily; or

(b) which is declared by or under any transferred provision to be inalienable;

but a vesting order shall not be made in relation to any such land, where representations objecting to the proposal for making the order have been duly made by the owner of the land and have not been withdrawn, unless the proposal has been approved by a resolution of each House of Parliament.

(4) Nothing in this section shall authorise the acquisition, without the consent of the Minstry of Finance[F90], of any land on or in which there is, to the knowledge of that Ministry, any historic monument or archaeological object.

(5) In subsection (4), "historic monument" and "archaeological object" have the same meanings as in**[**[F91] the Historic Monuments and Archaelogical Objects (Northern Ireland) Order 1995**]**.

F89 1981 NI 3; 1985 NI 1

F90 SR 1976/80

F91 1995 NI 9

Modifications etc. (not altering text)

C56 Ss. 95 - 98 applied by S.R 2004/49, art. 5 (as inserted (28.1.2008) by Local Government (Constituting a Joint Committee a Body Corporate) (Amendment) Order (Northern Ireland) 2007 (S.R. 2007/505), **art. 2(5)**)

C57 Ss. 95-98 applied (20.8.2008) by Local Government (Constituting a Joint Committee a Body Corporate) Order (Northern Ireland) 2008 (S.R. 2008/310), **art. 5**

98 Power to enter on land.

[F92](1) A person authorised in writing by a council (in this section referred to as an "authorised person") may, on production if required of his credentials, at any reasonable time enter any land—

(a) for the purpose of survey, valuation or examination—

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(i) where the council proposes to acquire the land otherwise than by agreement, or

(ii) where it appears to the council that survey, valuation or examination is necessary in order to determine whether any functions of the council should be exercised on or with respect to the land;

(b) for the purpose of exercising any function that the council has power to exercise on or with respect to the land;

F93(c) for the purpose of determining whether, and if so in what manner, such a function should be exercised.]

(2) A power of entry under subsection (1) shall not be exercisable in relation to any land except—

(a) with consent given by the occupier of the land; or

(b) where entry is sought for the sole purpose of examination, after at least twenty-four hours' notice of the intended entry has been served on the occupier or owner of the land; or

(c) where entry is sought for any other purpose, after at least six days' notice of the intended entry has been served on the occupier and on the owner, if the owner is known;

but such consent or notice shall not be necessary where entry is sought under subsection (1)(*b*) and the case is one of emergency.

(3) If any person, other than the owner or occupier of the land, knowingly prevents an authorised person from doing on the land any act that the authorised person is duly authorised to do or obstructs the authorised person in doing any such act, he shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding**[**F94 level 3 on the standard scale**]**.

(4) If any person, being the owner or occupier of land, knowingly prevents an authorised person from doing on the land any act that the authorised person is duly authorised to do or obstructs the authorised person in doing any such act, a court of summary jurisdiction on proof thereof may order him to permit to be done on the land that act and all such things as are reasonably necessary to enable the act to be done or as are incidental to the doing of it; and, if he fails to comply with the order, he shall be guilty of an offence and shall, for every day during which the failure continues, be liable on summary conviction to a fine not exceeding**[**F94 level 2 on the standard scale**]**.

(5 F95 Where under this section an authorised person enters any land, he shall ensure that the land is not left less secure by reason of the entry, and the council shall make good or pay compensation for any damage to property caused by the authorised person in entering the land, in doing any act on the land or in making the land secure.

(6) Any question of disputed compensation under this section shall be referred to and determined by the Lands Tribunal.

(7) Any reference in this section to an occupier or to an owner shall be construed as including a reference to a person appointed in writing by the occupier or owner as his representative for purposes which include all or any of the purposes of this section.

(8) Any power conferred by this section to survey land shall be construed as including power to ascertain or fix boundaries, or to search and bore for the purpose of ascertaining the course of any sewers or drains or of ascertaining the nature of the subsoil or the presence of minerals therein, or both, and to take and carry away, for the purpose of examination, specimens of the subsoil or minerals, or both, found therein.

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F92 1978 NI 19
F93 1978 NI 19
F94 1984 NI 3
F95 1978 NI 19

Modifications etc. (not altering text)

C58 Ss. 95 - 98 applied by S.R 2004/49, art. 5 (as inserted (28.1.2008) by Local Government (Constituting a Joint Committee a Body Corporate) (Amendment) Order (Northern Ireland) 2007 (S.R. 2007/505), **art. 2(5)**)

C59 Ss. 95-98 applied (20.8.2008) by Local Government (Constituting a Joint Committee a Body Corporate) Order (Northern Ireland) 2008 (S.R. 2008/310), **art. 5**

CONTRACTS

99 Contracts of councils.

(1) Subject to the succeeding provisions of this section, a council may enter into contracts necessary for the discharge of any of its functions.

(2) All contracts made by a council shall be made in accordance with the standing orders of the council and in the case of contracts for the supply of goods or materials or for the execution of works, the standing orders shall—

(a) require that, except as otherwise provided by or under the standing orders, notice of the intention of the council to enter into a contract shall be published and tenders invited; and

(b) regulate the manner in which such notice is to be published and tenders are to be invited.

(3) Without prejudice to section 19(1)(*a*)(ii) of the Interpretation Act (Northern Ireland) 1954 , a person entering into a contract with a council shall not be bound to enquire whether the standing orders of the council which apply to the contract have been complied with, and all contracts entered into by a council, if otherwise valid, shall, notwithstanding that the standing orders applicable thereto have not been complied with, have full force and effect.

(4) Where any part of the expenditure to be incurred by a council on the foot of any contract proposed to be entered into by the council would fall to be defrayed by way of a grant from public funds, other than a grant in aid of the general expenditure of the council, the Ministry by which payment of the grant would be made or recommended may issue directions, either generally or in a particular case or cases, that the council shall not enter into the contract otherwise than by acceptance of a tender submitted after public notice inviting tenders has been duly given, without first obtaining the approval of that Ministry; and where any such direction has been issued it shall be the duty of the council to give effect thereto.

Modifications etc. (not altering text)

C60 S. 99 applied (with modifications) by S.R 2004/49, art. 6 (as inserted (28.1.2008) by Local Government (Constituting a Joint Committee a Body Corporate) (Amendment) Order (Northern Ireland) 2007 (S.R. 2007/505), **art. 2(5)**)

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C61 S. 99 applied (with modifications) (20.8.2008) by Local Government (Constituting a Joint Committee a Body Corporate) Order (Northern Ireland) 2008 (S.R. 2008/310), **art. 6**

100 Sealing of contracts

(1) Any contract or instrument which if made or executed by a person not being a body corporate would not be required to be made**[**[F96] by deed**]** may, if made by a council and if the subject matter thereof**[**[F97] does not exceed £30,000 in value**]**, be made or executed on behalf of the council by any person or persons generally or specially authorised by the council to act for that purpose.

[[F97](1A) The Department may by order amend subsection (1) so as to increase the amount for the time being specified in that subsection.**]**

(2) Nothing in this section shall be taken as preventing any contract or instrument from being made or executed by a council under its common seal.

F96 2005 NI 7
F97 1995 NI 5

Local and personal Bills

101 Power to promote or oppose local or personal Bills.

Subject to the provisions of this Act, where a council is satisfied that it is expedient to promote or oppose any local or personal Bill in Parliament, the council may promote or oppose the Bill and may defray the expenses incurred in so doing.

102 Sanction of council to promotion of, or opposition to, Bills.

(1) A council shall not promote or oppose a Bill under the powers conferred by this Act otherwise than in pursuance of a special resolution of the council.

(2) In the case of the promotion of a Bill, the resolution shall be published in at least two newspapers circulating in the district of the council and shall be submitted for the approval of the Ministry, and the council shall not proceed with the promotion of the Bill if the Ministry notifies the council that the resolution has not received that approval.

(3) The approval of the Ministry shall not be given until the expiration of seven days after the publication of the resolution, and in the meantime any local elector for the district of the council may serve notice on the Ministry of his objection to the resolution.

(4) A resolution to promote a Bill must be confirmed by a special resolution of the council as soon as practicable after the expiration of fourteen days from the date when the Bill has been deposited in Parliament, and, if it is not so confirmed, the council shall take all necessary steps to withdraw the Bill.

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103 Taxation of costs.

No costs incurred by a council in the promotion of, or opposition to, a Bill, being costs which are liable to be taxed under**[**[F98] any statutory provision**]**, shall be charged to the funds of the council unless they have been so taxed and allowed

F98 SI 1999/663

CO-OPERATION WITH OTHER COUNCILS, PUBLIC BODIES AND GOVERNMENT DEPARTMENTS

104 Agency arrangements

(1) A council may make arrangements with any other council or any public body or government department for the exercise of any functions—

(a) by the council on behalf of the other council or, as the case may be, the public body or department, or

(b) by the other council or, as the case may be, the public body or department on behalf of the council,

on such terms as may be provided for by the arrangements.

(2) A public body or government department which proposes to make arrangements under subsection (1) shall have power to make the arrangements and carry them into effect if, apart from the provisions of this subsection, it would not have power to do so, except that a public body shall not make any such arrangements in pursuance of this subsection without the consent of the Ministry concerned.

(3) Arrangements made under this section shall not diminish in any respect the responsibility of any council, public body or department by which the arrangements are made.

Modifications etc. (not altering text)

C62 Ss. 104 - 106 applied (with modifications) by S.R 2004/49, art. 7 (as inserted (28.1.2008) by Local Government (Constituting a Joint Committee a Body Corporate) (Amendment) Order (Northern Ireland) 2007 (S.R. 2007/505), **art. 2(5)**)

C63 Ss. 104-106 applied (20.8.2008) by Local Government (Constituting a Joint Committee a Body Corporate) Order (Northern Ireland) 2008 (S.R. 2008/310), **art. 7**

105 Arrangements for the supply of goods and services or interchange of staff.

(1) A council may make arrangements with any other council or any public body**[**[F99], specified body**]** or government department for—

(a) the supply by one party to the arrangements to the other of any goods;

(b) the provision by one party to the arrangements for the other of any administrative, professional or technical services;

(c) the use by one party to the arrangements of any vehicle, plant or apparatus belonging to the other and (without prejudice to paragraph (*b*)) the placing at the disposal of the first-mentioned party of the services of any person employed in connection with the vehicle, plant or apparatus in question;

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(d) the provision or maintenance by one party to the arrangements of any works, facility, amenity, equipment or thing for the provision or maintenance of which the other is responsible;

on such terms as may be provided for by the arrangements.

(2) A council may make arrangements with any other council or any public body**[**[F99], specified body**]** or government department for the permanent or temporary transfer of officers, with their consent, between the councils or between the council and the body or department.

(3) A public body or government department which proposes to make arrangements under subsection (1) or (2) shall have power to make the arrangements and carry them into effect if, apart from the provisions of this subsection, it would not have power to do so, except that a public body shall not make arrangements under subsection (2) without the consent of the Ministry concerned.

(4) A council, public body or government department may purchase and store any goods which in its opinion it may require for the purposes of subsection (1)(*a*).

(5) For the avoidance of doubt it is hereby declared that for superannuation purposes services rendered by an officer with respect to whose temporary transfer arrangements under subsection (2) are in force is service rendered to the council, body or department by which he was employed before the transfer.

(6) Arrangements made under this section shall not diminish in any respect the responsibility of any council, public body**[**[F99], specified body**]** or department by which the arrangements are made.

[[F99](7) In this section "specified body" means a body which is specified, or is of a description specified, in regulations and any such regulations may contain provisions—

(a) for restricting the arrangements which may by virtue of the regulations be entered into by a specified body under subsection (1) or (2) ; and

(b) for securing the inclusion in any such arrangements made by virtue of the regulations of terms imposing restrictions.**]**

F99 1985 NI 15

Modifications etc. (not altering text)

C64 Ss. 104 - 106 applied (with modifications) by S.R 2004/49, art. 7 (as inserted (28.1.2008) by Local Government (Constituting a Joint Committee a Body Corporate) (Amendment) Order (Northern Ireland) 2007 (S.R. 2007/505), **art. 2(5)**)

C65 Ss. 104-106 applied (20.8.2008) by Local Government (Constituting a Joint Committee a Body Corporate) Order (Northern Ireland) 2008 (S.R. 2008/310), **art. 7**

106 Contribution to other councils, etc.

A council may contribute towards expenses incurred by another council or any public body or government department in providing or maintaining any work, facility, amenity, equipment or thing that the contributing council has power to provide or maintain—

(a) within the district of the contributing council, or

(b) at a place where it will benefit any of the inhabitants of that district.

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Modifications etc. (not altering text)

C66 Ss. 104 - 106 applied (with modifications) by S.R 2004/49, art. 7 (as inserted (28.1.2008) by Local Government (Constituting a Joint Committee a Body Corporate) (Amendment) Order (Northern Ireland) 2007 (S.R. 2007/505), **art. 2(5)**)

C67 Ss. 104-106 applied (20.8.2008) by Local Government (Constituting a Joint Committee a Body Corporate) Order (Northern Ireland) 2008 (S.R. 2008/310), **art. 7**

CO-OPERATION WITH VOLUNTARY BODIES, ETC.

107 Contributions for development of trade, tourism and cultural activities.

[[F100](1)**]** A council may—

(a) contribute towards the expenses of any voluntary body which carries on activities within the district of the council, being activities for the purpose of—

(i) furthering the development of trade, industry or commerce in the district, or

(ii) encouraging the pursuit by persons residing in the district of interests of a cultural or artistic nature;

(b) contribute towards the expenses of any association which carries on activities calculated to assist the development of tourist traffic in Northern Ireland.

[[F100](2) A council may contribute under subsection (1)(*a*) towards the expenses of a voluntary body incurred on publicity only where the publicity is incidental to the main purpose for which the contribution is given.**]**

F100 1992 NI 6

108 Contributions to other voluntary bodies.

[[F101](1)**]** A council may contribute to the funds of any voluntary body which provides any public service in Northern Ireland.

[[F101](2) A council may contribute under subsection (1) towards the funds of a voluntary body in respect of publicity only where the publicity is incidental to the main purpose for which the contribution is given.**]**

F101 1992 NI 6

ADVICE AND INFORMATION

109 Instruction, lectures, etc., on questions relating to the functions of councils.

A council shall take such steps as it considers necessary or expedient to arrange for the publication within its district of information on questions relating to its functions, and may also—

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(a) arrange for the delivery of lectures and addresses, and the holding of discussions, on such questions;

(b) arrange for the display of pictures, films or models or the holding of exhibitions relating to such questions;

(c) prepare, or join in or contribute to the cost of the preparation of, pictures, films, models or exhibitions to be displayed or held as aforesaid.

Modifications etc. (not altering text)

C68 S. 109 applied (with modifications) by S.R 2004/49, art. 7 (as inserted (28.1.2008) by Local Government (Constituting a Joint Committee a Body Corporate) (Amendment) Order (Northern Ireland) 2007 (S.R. 2007/505), **art. 2(5)**)

C69 S. 109 applied (20.8.2008) by Local Government (Constituting a Joint Committee a Body Corporate) Order (Northern Ireland) 2008 (S.R. 2008/310), **art. 7**

110 Information centres.

A council may make, or assist in the making of, arrangements whereby the public may on application readily obtain, either at premises specially maintained for the purpose or otherwise, information concerning the services available within the district of the council provided either by the council or by public bodies or by government departments, and information as to**[**[F102] matters relating to the functions of the council**]**.

F102 1992 NI 6

OTHER MISCELLANEOUS FUNCTIONS

111 Subscriptions.

A council may pay reasonable subscriptions, whether annually or otherwise, to the funds of—

(a) associations of councils or officers or members of councils formed for the purpose of consultation upon and discussion of matters relating to the common interests of councils or matters relating to local government;

(b) voluntary bodies established for scientific, technical or professional purposes the objects of which are ancillary to any of the functions of the council.

Modifications etc. (not altering text)

C70 Ss. 111 - 113A applied (with modifications) by S.R 2004/49, art. 7 (as inserted (28.1.2008) by Local Government (Constituting a Joint Committee a Body Corporate) (Amendment) Order (Northern Ireland) 2007 (S.R. 2007/505), **art. 2(5)**)

C71 Ss. 111-113A applied (20.8.2008) by Local Government (Constituting a Joint Committee a Body Corporate) Order (Northern Ireland) 2008 (S.R. 2008/310), **art. 7**

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112 Insurance.

A council may—

(a) insure any property in which it has an insurable interest;

(b) insure against any contingency which may result in the imposition of any liability on or loss to the council.

Modifications etc. (not altering text)

C72 Ss. 111 - 113A applied (with modifications) by S.R 2004/49, art. 7 (as inserted (28.1.2008) by Local Government (Constituting a Joint Committee a Body Corporate) (Amendment) Order (Northern Ireland) 2007 (S.R. 2007/505), **art. 2(5)**)

C73 Ss. 111-113A applied (20.8.2008) by Local Government (Constituting a Joint Committee a Body Corporate) Order (Northern Ireland) 2008 (S.R. 2008/310), **art. 7**

113 Exercise of certain functions outside district.

(1) Where any function of a council is not required by a statutory provision to be exercised in the district of the council, the council may exercise the function at a place outside its district—

(a) if the council for the district within which that place is situated consents; and

(b) if the function is exercised in accordance with—

(i) any conditions reasonably imposed by the last-mentioned council, and

(ii) any statutory provision regulating the exercise of the function; and

(c) where the function is exercisable for the purpose of providing amenities or facilities for persons who are resident in the district of the council, if that place is convenient for those persons.

(2) Consent under subsection (1)(*a*) shall not be withheld unreasonably, and any question arising as to whether a consent is unreasonably withheld or whether any conditions are reasonably imposed shall be referred to and determined by the Ministry.

Modifications etc. (not altering text)

C74 Ss. 111 - 113A applied (with modifications) by S.R 2004/49, art. 7 (as inserted (28.1.2008) by Local Government (Constituting a Joint Committee a Body Corporate) (Amendment) Order (Northern Ireland) 2007 (S.R. 2007/505), **art. 2(5)**)

C75 Ss. 111-113A applied (20.8.2008) by Local Government (Constituting a Joint Committee a Body Corporate) Order (Northern Ireland) 2008 (S.R. 2008/310), **art. 7**

[F103 113A Power to provide advice and assistance.

(1) Subject to subsections (3) to (6), a council may provide advice and assistance as respects any matter in which it has skill and experience to a body engaged outside the United Kingdom in the carrying on of any of the activities of local government.

(2) In relation to any place outside the United Kingdom, activities shall be taken for the purposes of this section to be activities of local government wherever they are the equivalent of, or are comparable to, any activities which in Northern Ireland are carried on by councils.

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(3) The power conferred by subsection (1) shall not be exercised except with the consent of the Department or in accordance with a general authorisation given by the Department.

(4) Before giving any general authorisation under subsection (3), the Department shall consult with such persons appearing to it to represent councils as the Department thinks appropriate.

(5) A consent or authorisation under subsection (3) may be given subject to such conditions as the Department thinks fit.

(6) Nothing in this section authorises a council to provide any financial assistance by—
  (a) making a grant or loan,
  (b) giving a guarantee or indemnity, or
  (c) investing by acquiring share or loan capital.

(7) The Department shall provide councils with such guidance about the exercise of their powers under this section as it thinks appropriate.**]**

F103 1995 NI 5

Modifications etc. (not altering text)

C76 Ss. 111 - 113A applied (with modifications) by S.R 2004/49, art. 7 (as inserted (28.1.2008) by Local Government (Constituting a Joint Committee a Body Corporate) (Amendment) Order (Northern Ireland) 2007 (S.R. 2007/505), **art. 2(5)**)

C77 Ss. 111-113A applied (20.8.2008) by Local Government (Constituting a Joint Committee a Body Corporate) Order (Northern Ireland) 2008 (S.R. 2008/310), **art. 7**

114 Acceptance of gifts.

(1) Subject to the provisions of this section a council may accept, hold and administer any gift of property, whether real or personal—
  (a) for any local public purpose, or
  (b) for the benefit of the inhabitants of its district or of any part of its district,

and may provide and maintain any works, facility, amenity, equipment or thing incidental to or consequential on the exercise of the powers conferred by this section.

(2) This section shall not authorise the acceptance by a council of property which, when accepted, would be held in trust for an ecclesiastical charity or an eleemosynary charity.

115 Expenditure for special purposes.

(1) Subject to**[**[F104] subsections (2) to (5)**]**, a council may make any payment for any purpose which in its opinion is in the interests**[**[F105] of, and will bring direct benefit to**]**
  (a) [F105]. . . the council;
  (b) [F105]. . . its district or[F105]. . . any part of its district;
  (c) [F105]. . . the inhabitants of its district or[F105]. . . any part of its district.

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[[F104](1A) Subject to subsection (2), a council may make payments to any fund which is raised in connection with a particular event directly affecting persons resident in the United Kingdom on behalf of whom a public appeal for contributions has been made—

(a) by the chairman of a council; or

(b) by a committee of which the chairman of a council is a member; or

(c) by such a person or body as is referred to in section 137(3)(*c*) of the Local Govbernment Act 1972; or

(d) by such a person or body as is referred to in section 83(3)(*c*) of the Local Government (Scotland) Act 1973.**]**

(2) The total payments made under this section by a council in any one financial year shall not**[**[F106] exceed the aggregate of—

(a) the product of a rate of**[**[F107] 0.0596p**]** in the pound on the rateable value of all hereditaments **[**[F108]in a NAV list**]** in the district [F109]. . . ; and

(b) the product of a rate of **[**[F110]0.00082p**]** in the pound on the rateable **[**[F111]capital**]** value of all [F112]. . . hereditaments **[**[F113]in a capital value list**]** in the district.**]**

[[F114](2A) Regulations may amend paragraph (b) of subsection (2) by substituting for " **[**[F115]0.00082p**]**" (or such amount as is for the time being specified therein by virtue of this subsection) such other amount as is prescribed.

(2B) Regulations shall not be made under subsection (2A) unless a draft of the regulations has been laid before, and approved by resolution of, the Assembly.**]**

(3) A council shall not make any payment under**[**[F104] subsection (1)**]**

[[F105](a)**]** for a purpose for which the council is, either unconditionally or subject to any limitation or to the satisfaction of any condition, authorised or required under any other statutory provision to make any payment**[**[F105] or**]**

[[F105](b) unless the direct benefit accruing to its district or any part of its district or to the inhabitants of its district will be commensurate with the payments to be made.**]**

[[F105](4) In any case where—

(a) by virtue of paragraph (*a*) of subsection (3) a council is prohibited from making any payment for a particular purpose; and

(b) the power or duty of the council to make any payment for that purpose is in any respect limited or conditional (whether by being restricted to a particular group of persons or in any other way),

the prohibition in that paragraph shall extend to all payments to which that power or duty would apply if it were not subject to any limitation or condition.

(5) A council may make a payment under subsection (1) on publicity only by way of assistance to a public body or a voluntary body where the publicity is incidental to the main purpose for which the assistance is given.**]**

[[F116](6) For the purposes of this section—

(a) "capital value" means capital value for the purposes of the Rates (Northern Ireland) Order 1977 and shall be construed in accordance with Article 39 of that Order;

(b) "NAV list" has the meaning given by Article 40(1)(a) of the Rates (Northern Ireland) Order 1977.**]**

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F104 1995 NI 5
F105 1992 NI 6
F106 SR 1997/144
F107 SR 2003/73
F108 Words in s. 115(2)(a) inserted (1.4.2007) by Rates (Consequential Provisions) Order (Northern Ireland) 2007 (S.R. 2007/192), art. 2(1), **Sch. 1 para. 3(a)(i)(aa)**
F109 Words in s. 115(2)(a) omitted (1.4.2007) by virtue of Rates (Consequential Provisions) Order (Northern Ireland) 2007 (S.R. 2007/192), art. 2(1), **Sch. 1 para. 3(a)(i)(bb)**
F110 Word in s. 115(2)(b) substituted (1.4.2007) by Rates (Consequential Provisions) Order (Northern Ireland) 2007 (S.R. 2007/192), art. 2(1), **Sch. 1 para. 3(a)(ii)(aa)**
F111 Word in s. 115(2)(b) inserted (1.4.2007) by Rates (Consequential Provisions) Order (Northern Ireland) 2007 (S.R. 2007/192), art. 2(1), **Sch. 1 para. 3(a)(ii)(bb)**
F112 Word in s. 115(2)(b) omitted (1.4.2007) by virtue of Rates (Consequential Provisions) Order (Northern Ireland) 2007 (S.R. 2007/192), art. 2(1), **Sch. 1 para. 3(a)(ii)(cc)**
F113 Words in s. 115(2)(b) inserted (1.4.2007) by Rates (Consequential Provisions) Order (Northern Ireland) 2007 (S.R. 2007/192), art. 2(1), **Sch. 1 para. 3(a)(ii)(dd)**
F114 2005 NI 18
F115 Word in s. 115(2A) substituted (1.4.2007) by Rates (Consequential Provisions) Order (Northern Ireland) 2007 (S.R. 2007/192), art. 2(1), **Sch. 1 para. 3(b)**
F116 S. 115(6) inserted (1.4.2007) by Rates (Consequential Provisions) Order (Northern Ireland) 2007 (S.R. 2007/192), art. 2(1), **Sch. 1 para. 3(c)**

[F117 PUBLICITY

F117 1992 NI 6

115A Publicity Prohibition of political publicity.

(1) A council shall not publish any material which, in whole or in part, appears to be designed to affect public support for a political party.

(2) In determining whether material falls within the prohibition regard shall be had to the content and style of the material, the time and other circumstances of publication and the likely effect on those to whom it is directed and, in particular, to the following matters—

(a) whether the material refers to a political party or to persons identified with a political party or promotes or opposes a point of view on a question of political controversy which is identifiable as the view of one political party and not of another;

(b) where the material is part of a campaign, the effect which the campaign appears to be designed to achieve.

(3) A council shall not give financial or other assistance to a person for the publication of material which the council is prohibited by this section from publishing itself.

115B Codes of recommended practice as regards publicity.

(1) The Department may issue one or more codes of recommended practice as regards the content, style, distribution and cost of council publicity, and such other related matters

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as it thinks appropriate, and councils shall have regard to the provisions of any such code in coming to any decision on publicity.

(2) The Department may revise or withdraw a code issued under this section.

(3) The Department shall before issuing, revising or withdrawing a code consult such councils, such associations or bodies representative of councils and such other associations or public bodies, as appear to the Department to be desirable.

(4) A code shall not be issued or revised unless a draft of it has been laid before and approved by a resolution of the Assembly.

115C Separate account of expenditure on publicity.

(1) A council shall keep a separate account of its expenditure on publicity.

(2) Any person interested may at any reasonable time and without payment inspect the account and make copies of it or any part of it.

(3) A person having custody of the account who intentionally obstructs a person in the exercise of the rights conferred by subsection (2) shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale.

(4) The Department may by order provide that subsection (1) does not apply to publicity or expenditure of a prescribed description.

(5) Before making an order under subsection (4) the Department shall consult such councils, such associations or bodies representative of councils and such other associations or public bodies as appear to the Department to be desirable.**]**

115D Sections 115A to 115C: supplementary provisions.

(1) Sections 115A to 115C apply to any publicity expressly or impliedly authorised by any statutory provision, including sections 107 to 110 and 115.

(2) Nothing in sections 115A to 115C shall be construed as applying to anything done by a council in the discharge of its duties under sections 23 to 27.

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;

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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.

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.

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(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 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.

(3) [F118] . . . . . .

(4) A document directed by this section to be open to inspection shall be so open at all reasonable hours, and,[F119] . . . 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**[**[F120] level 2 on the standard scale**]**.

F118 S. 121(3) repealed (1.4.2006) by Local Government (Northern Ireland) Order 2005 (S.I. 2005/1968 (N.I. 18)), arts. 1(2), 28(8), Sch. 1; S.R. 2006/151, **art. 2**, Sch. (with art. 4)
F119 1992 NI 6
F120 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

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(b) in such other manner as appears to the council to be desirable for giving publicity to the notice.

123 Penalty for destroying notices.

[F121] A person who wilfully destroys, tampers with, pulls down, injures or defaces—

(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**[**[F122] level 3 on the standard scale**]**.

F121 1965 c.13 (NI); 1984 NI 11
F122 1984 NI 3

Modifications etc. (not altering text)
C78 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

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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 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)

C79 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)

C80 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,[F123]. . . 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.

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Changes to legislation: *There are outstanding changes not yet made by the legislation.gov.uk editorial team to Local Government Act (Northern Ireland) 1972. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)*

(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

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

F123 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.

PART IX

ABOLITION OF EXISTING LOCAL AUTHORITIES
AND TRANSITIONAL PROVISIONS

131 Abolition of existing local government areas and dissolution of existing local authorities, with certain exceptions.

(1) On [[F124] 1st October 1973]—

(a) every county and every county borough shall cease to be an administrative area for local government purposes;

(b) every borough (other than a county borough), every urban district and every rural district shall be abolished;

(c) every united district within the meaning of section 12 of the Public Health (Ireland) Act 1878 or section 7 of the Water Supplies and Sewerage Act (Northern Ireland) 1945 shall be abolished.

(2) Without prejudice to any provision of an order made under section 134(2)(*h*), on [[F124] 1st October 1973]—

(a) the council of every county, county or other borough, urban district and rural district;

(b) the corporation of every borough other than a county borough or a borough to whose corporation section 132(3)(*b*) applies;

(c) the joint board constituted for every united district such as is mentioned in subsection (1)(*c*); and

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(d) the Belfast City and District Water Commissioners;

shall be dissolved.

(3) A new town commission established under the New Towns Acts (Northern Ireland) 1965 to 1968 shall—

(a) if immediately before [F124 1st October 1973] the commission were exercising municipal functions, cease to exercise those functions on that day;

(b) cease to exercise development functions, and be dissolved, on such day or days as the Ministry may by order appoint;

and paragraph (*a*), and any order under paragraph (*b*), shall have effect notwithstanding section 33 of the New Towns Act (Northern Ireland) 1965 or any other provision of the said Acts of 1965 to 1968.

(4) Any council, corporation or joint board to which subsection (2) applies, the corporation of any county borough or of any borough to whose corporation section 132(3)(*b*) applies, the Belfast City and District Water Commissioners, and any new town commission, is in this Part referred to as an "existing local authority" ; and in this Part "municipal functions" and "development functions" in relation to a new town commission have the same meanings as in section 7 of the New Towns Act (Northern Ireland) 1965.

F124 1972 NI 21

132 Charters

(1) On [F125 1st October 1973] the charter of the corporation of every borough other than a county borough or a borough to whose corporation subsection (3)(*b*) applies shall be annulled.

(2) The council for a district which includes the whole or the major part of a borough other than a county borough may, before [F125 1st October 1973], resolve that the charter of the corporation of the borough shall have effect in relation to the district; and, if the borough bears a name other than the name of the district, the resolution shall provide for the name of the corporation of the borough to be changed to correspond to the name of the district.

(3) On and after [F125 1st October 1973] the charter of—

(a) the corporation of each county borough; and

(b) the corporation of a borough with respect to whose charter a resolution has been passed under subsection (2);

shall have effect in relation to the district which includes the whole or the major part of the borough as existing immediately before that date, but subject to any order made under section 134(2)(*c*).

(4) Where a charter to which subsection (3) applies has effect subject to any adaptations or modifications by virtue of section 30(1A) of the New Towns Act (Northern Ireland) 1965, it shall, on [F125 1st October 1973], cease to be subject thereto.

(5) The corporation established or regulated by a charter to which subsection (3) applies shall continue to bear the name it bore immediately before [F125 1st October 1973] or, where a resolution passed under this section provides for a change of its name, shall on and after that date bear the name specified in the resolution, and shall continue to

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have perpetual succession, and shall act by the council of the district mentioned in that subsection.

(6) The chairman of the council mentioned in subsection (5), and the councillors of that council who are designated as aldermen in accordance with the charter, shall be respectively the mayor (or, as the case may be, the lord mayor) and the aldermen of the borough to which the charter relates.

(7) Without prejudice to any provision of the charter for the conferment of the freedom of the borough, the local electors of a district in relation to which a charter to which subsection (3) applies has effect shall, for the purposes of the charter, be the burgesses (or, as the case may be, the citizens) of the borough.

(8) When a council passes a resolution under subsection (2) it shall forthwith publish notice of the resolution in the Belfast Gazette.

F125 1972 NI 21

133 Transfer of functions.

(1) The Ministry may by order make provision for the transfer from existing local authorities or their officers, on such day or days as are specified in the order, of any functions of those authorities or officers for the transfer of which provision is not made by any other statutory provision (except subsection (2)) to such other authority, being a government department, council or public body, or to such officer of any such other authority, as is specified in the order.

(2) For the purpose of providing for the exercise on and after [[F126] 1st October 1973] by councils of functions exercisable immediately before that date by urban district councils, where provision for the transfer of those functions is not made by any statutory provision other than this subsection any reference in a transferred provision contained in—

(a) a public general Act passed before [[F126] 1st October 1973], or

(b) an instrument made before [[F126] 1st October 1973], not being an instrument in the nature of a local enactment,

to an urban district (whether as such or as a county district or a sanitary district) or to the council of such a district, or any reference which is to be construed as such a reference, shall, except where it is a reference to a specified urban district or urban district council or is to be construed as such, be construed as including a reference to a district or its council, as the case may be.

F126 1972 NI 21

134 Supplementary and transitional provisions.

(1) The Ministry concerned may at any time, whether before or after [[F127] 1st October 1973], by order make such incidental, consequential, transitional or supplemental provision as appears to it to be necessary or expedient for the general or any particular purposes of this Act or of any other transferred provision passed in the same Session as this Act or in any subsequent Session (but before [[F127] 1st October 1973]) [[F128] or made by Order in Council under the Northern Ireland (Temporary Provisions) Act 1972 before that date] or in consequence of any of the provisions thereof or for

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giving full effect thereto, and nothing in any other provision of this Act or any other such transferred provision shall be construed as prejudicing the generality of this subsection.

(2) Any such order may in particular include provision—

(a) with respect to the transfer and management or custody of property (whether real or personal) and the transfer of other assets and of liabilities;

(b) for temporary modifications of this Act or for modifying or repealing any transferred provision passed or made before [F127 1st October 1973] (not including such a provision contained in this Act, but including such a provision contained in or made under a local or personal Act or an Act confirming a provisional order);

(c) for modifying a charter which continues to have effect by virtue of section 132(3) (including the making of provision for the designation of aldermen, who shall number not more than one-quarter of the whole number of the councillors, and the conferment of the freedom of the borough);

(d) with respect to the membership of any body so far as that membership consists of or includes persons elected by, or appointed by or on the nomination of,—

(i) any existing local authority;

(ii) any two or more bodies who include such an authority;

(iii) any association which is wholly or partly representative of such authorities;

(e) for anything done before the appointed day by any existing local authority in the exercise of functions which on that day become exercisable by any other authority to be deemed as from that day to have been duly done by that other authority, and for any instrument or document made before that day, if or so far as it was made in the exercise of those functions, to continue in force on and after that day until varied or revoked in the exercise of those functions by that other authority;

(f) for the carrying on and completion by or on behalf of one authority of any thing (including any legal or parliamentary proceeding) commenced by or on behalf of any other authority;

(g) for construing, so far as may be necessary for the purposes of or in consequence of the order, references in any transferred provision or in any judgment, decree, order or warrant of any court, or in any award, deed, contract, record or other document to any authority as references to any other authority;

(h) for the application, defrayal, apportionment or adjustment of assets, liabilities, income or costs, for the inclusion or exclusion for purposes of such application, defrayal, apportionment or adjustment of any item which the Ministry concerned may think proper to include or exclude, and for the continuance of, or of functions of, any existing local authority, and the continuance in office of any member or officer of an existing local authority, as if the authority had not been dissolved, for purposes of such application, defrayal, apportionment or adjustment or for purposes of the making up and audit of accounts and any proceedings in connection therewith or consequent thereupon;

(i) for the determination of questions arising under the order.

(3) Stamp duty shall not be chargeable on this Act or on an order made under this section or on any instrument executed for the purposes of giving effect to such an order.

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(4) Any asset of an existing local authority (except an asset of a new town commission held for purposes of development functions) which is not transferred to some other authority on or before [F127 1st October 1973] by virtue of an order under this section or of any other transferred provision shall, by virtue of this subsection, vest in the Ministry of Finance on that date, and any liability in respect of that asset which is not so transferred on or before that date shall be transferred to that Ministry on that date and shall be enforceable against that Ministry.

(5) A certificate issued by the Ministry concerned that any asset or liability has, by virtue of an order under, or any provision of, this section, been transferred to or vested in an authority specified in the certificate shall be accepted as evidence of that fact, and, upon lodgement of such a certificate relating to land, the certificate shall be registered in the Registry of Deeds or, in the case of registered land, the title to which the certificate relates shall be registered in the Land Registry.

(6) An order under this section which includes provision for modifying or repealing a transferred provision (except an order making only temporary modifications of this Act or an order modifying or repealing only a provision contained in or made under a local or personal Act or an Act confirming a provisional order) shall be subject to affirmative resolution.

F127 1972 NI 21
F128 1972 NI 22

135 Transfer of officers

(1) An order under section 134 may make provision for the transfer of any person who is, on such date before [F129 1st October 1973] as may be specified in relation to him in the order, the holder of any place, situation or employment and who is affected by any provision of, or of any instrument made under, this Part or any other transferred provision such as is mentioned in subsection (1) of that section, and shall contain provisions for the protection of the interests of every person with respect to whose transfer such a provision is made.

(2) In the case of any person who immediately before [F129 1st October 1973] is in the employment of one or more than one existing local authority and for whose transfer no provision is made by any other statutory provision, an order under section 134 shall make such provision as is necessary to ensure that, to the extent (if any) to which, by reason only of the provisions of this Part, or any such other transferred provision as aforesaid, that person, apart from the order, would cease on [F129 1st October 1973] to be employed by one or more than one such authority, that person is transferred on [F129 1st October 1973] to the employment of such other authority or authorities as are specified in or determined under the order.

(3) The provision required to be made under subsection (1) or (2) shall include such provision with respect to any person who is transferred under this Part as to secure that—

(a) so long as he continues in the employment of the other authority or authorities by virtue of the transfer and until he is served with a statement in writing of his new terms and conditions of employment, he enjoys terms and conditions of employment (including conditions as to superannuation benefits) not less

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favourable than those he enjoyed immediately before 17th November 1971; and

(b) the said new terms and conditions are such that—

(i) so long as he is engaged in duties reasonably comparable to those in which he was engaged immediately before the date of the transfer, the scale of his remuneration; and

(ii) the other terms and conditions of his employment;

are taken as a whole not less favourable than those he enjoyed immediately before 17th November 1971.

(4) Where, in relation to a person to whom subsection (1) or (2) applies, the terms and conditions of his employment (including conditions as to superannuation benefits) were, before 17th November 1971 but not earlier than 1st October 1971, varied in any respect and the Ministry concerned considers that, in all the circumstances, the variation was not justified, that Ministry may direct that the variation shall be wholly or partially omitted from the terms and conditions on which he becomes employed by the other authority or authorities; and subsection (3) shall have effect in relation to him as if so much of the variation as is specified in the direction had not been included in the terms and conditions of his employment immediately before 17th November 1971.

(5) Where, in relation to a person to whom subsection (1) or (2) applies, the terms and conditions of his employment (including conditions as to superannuation benefits) are on or after 17th November 1971 varied in any respect, the Ministry concerned may direct that the variation shall be wholly or partially included among the terms and conditions on which he becomes employed by the other authority or authorities; and subsection (3) shall have effect in relation to him as if so much of the variation as is specified in the direction had been included in the terms and conditions of his employment immediately before 17th November 1971.

Subs.(6) rep. by 1996 NI 16

(7) Where a person enters the employment of an existing local authority on or after 17th November 1971 but before [[F129] 1st October 1973], subsections (3) and (5) shall have effect as if for any reference to terms and conditions of employment enjoyed immediately before 17th November 1971 there were substituted a reference to terms and conditions of employment enjoyed immediately after entering that employment.

(8) In subsections (3) and (5) "terms and conditions of employment" includes any restriction under a statutory provision on the termination of the employment of any person.

(9) The foregoing provisions of this section shall have effect with respect to a person who is employed by a new town commission for the purpose of development functions as if for any reference in those provisions to [[F129] 1st October 1973] there were substituted a reference to the day on which the new town commission are, by virtue of an order under section 131(3)(*b*), to be dissolved.

Subs.(10) rep. by 1973 NI 10

(11) For the purposes of this section, where a variation which is made in terms and conditions of employment on one date is expressed to take effect from another date, the terms and conditions shall be treated as varied on the first-mentioned date.

F129 1972 NI 21

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136 Superannuation officers.

(1) An order under section 134 may make provision with respect to the superannuation rights of any person who has been or is an officer of an existing local authority, or of any class of such persons, and may provide that the appropriate superannuation fund or scheme in relation to that officer or class shall be such fund or scheme as may be specified in or determined under the order; and the order may make such incidental, consequential, transitional or supplementary provision (including provision for the payment of accrued superannuation values or corresponding sums by any existing local authority or any council) as appears to the Ministry concerned to be necessary or proper for the purpose or in consequence of the order and for giving full effect thereto.

(2) In this section "accrued superannuation value" has the same meaning as in the Local Government (Superannuation) Act (Northern Ireland) 1950 .

137 Compensation of officers

(1) The Ministry shall by regulations made with the approval of the Ministry of Finance make provision for the payment, on such terms and subject to such conditions as may be specified in the regulations, of compensation to or in respect of a person employed by an existing local authority who is transferred under section 135(1), (2) or (9) and who subsequent to his transfer, suffers loss of employment or loss or diminution of emoluments (including superannuation rights) which is attributable to this Act or any other transferred provision such as is mentioned in section 134(1) and for whose compensation no provision is made by any other statutory provision.

(2) Regulations under this section may—
   (a) include provision as to the funds out of which and the authority or authorities by whom compensation is to be defrayed;
   (b) include provision as to the manner in which and the time within which and the person to whom any claim for compensation is to be made;
   (c) be framed so as to have effect from a date earlier than the making of the regulations but not so as to place any individual in a worse position than he would have been in if the regulations had been so framed as to have effect only from the date of their making;
   (d) apply for the purposes of this section any transferred provision relating to the payment of compensation, subject to the modifications (if any) specified in the regulations;
   (e) make provision for the determination of questions arising under the regulations.

(3) Regulations under this section may also make provision in relation to persons who are employees of any such association of existing local authorities as may be prescribed and who suffer loss of employment or loss or diminution of emoluments (including superannuation rights) which is attributable to the reorganisation of local government effected by this Act; and, without prejudice to subsection (2), regulations making any such provision may provide that any compensation paid under the regulations by a government department shall be recoverable by that department in accordance with the regulations from such association or from such councils as may be prescribed by or determined under the regulations.

S.138 rep. by 1985 NI 15

S.139 rep. by SLR 1980

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140 Bye-laws, etc.

Subject to any modification or repeal made under section 134(2)(*b*), all bye-laws, orders and regulations of an existing local authority which are in force immediately before [F130 1st October 1973] and are not inconsistent with any statutory provision shall, in so far as they relate to or are in pursuance of a function exercisable on and after that date by another authority, continue in force as if made by that other authority, and may be altered or revoked accordingly.

F130 1972 NI 21

S.141 rep. by 1985 NI 15

PART X

GENERAL

142 Application of Act to joint committees.

Without prejudice to section 19(9)(*c*), the provisions of this Act mentioned in Schedule 7 shall apply to joint committees as they apply to councils as if—

(a) any reference to a council included a reference to a joint committee and any reference to a committee of a council included a reference to a sub-committee of a joint committee;

(b) any reference to a councillor included a reference to a member of a joint committee, whether he is a councillor or not;

(c) any reference to the clerk of a council or the chief financial officer of a council included a reference to the chief officer of a joint committee;

(d) any reference to the offices of a council included a reference to the place of meeting of a joint committee; and

(e) any reference to the district of a council included a reference to the districts of all the councils which have concurred in appointing a joint committee.

143 Orders and regulations.

Orders made under this Act by the Ministry or any other government department (other than an order made under section 40(8), **[**F131 50,**]**F132 . . . . . F133 or 129 or an order under section 52 or 134 to which subsection (9) or, as the case may be, (6) of that section applies, [F134 or a vesting order]), and regulations made under this Act**[**F135 (other than regulations under section 115(2A))**]**, shall be subject to negative resolution.

F131 Words in s. 143 inserted (17.5.2006) by Local Government (Boundaries) (Northern Ireland) Order 2006 (S.I. 2006/1253 (N.I. 8)), arts. 1(2), **5(2)(b)**

F132 Words in s. 143 repealed (1.4.2006) by Local Government (Northern Ireland) Order 2005 (S.I. 2005/1968 (N.I. 18)), art. 1(2), 28(8), Sch. 1; S.R. 2006/151, **art. 2**, Sch. (with art. 4)

F133 1978 NI 11

F134 1972 NI 22

F135 2005 NI 18

S.144 rep. by SLR 1980

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145 Payments due by councils to government departments, etc.

Where the payment of any sum by a council is required to comply with any statutory provision and is due—

(a) to a government department or public body; or

(b) to the Exchequer; or

(c) to any public fund under the control of a government department or public body;

the amount of the sum may be abated from any contribution or grant payable to the council out of money provided by Parliament.

146 Interpretation: pecuniary interests.

[F136](1) Subject as hereafter provided in this section, a person shall be treated for the purposes of this Act as having a pecuniary interest in a contract or proposed contract or in any other matter if—

(a) he has himself or by or with or through another, an interest in the outcome thereof or in any commission, advantage or benefit arising or accruing therefrom;

(b) he or any nominee of his is a member of a company or other body with which that contract is made or is proposed to be made or which has a direct pecuniary interest in that other matter; or

(c) he is a partner or is in the employment of a person with whom that contract is made or is proposed to be made or who has a direct pecuniary interest in that other matter;

but shall not be so treated—

(i) if the pecuniary interest arises in relation to a contract or proposed contract for the supply of services, facilities or goods to the public and the terms of the contract are offered to the public at large and he has, fairly, openly and without qualification, accepted those terms upon the same conditions as those on which they are open to acceptance by any member of the public; or

(ii) if the pecuniary interest is of such a general nature or is so insignificant or trivial, or is so indirectly or remotely related to that contract, proposed contract or other matter that the judgment of the person is not likely to be affected or influenced thereby; or

(iii) by reason only of his being a member or an officer of any public body; or

(iv) by reason only of his being a member of any company or other body if he proves he has no beneficial interest in the shares therein or in the profits thereof.

(2) For the purposes of this section and sections 28 to 33 and 46, the interest of one of two spouses**[**[F137] or civil partners**]** living together shall be deemed to be the interest of the other of those spouses**[**[F137] or civil partners**]** unless that other spouse**[**[F137] or civil partner**]** proves he or she was unaware of, and had no reasonable grounds for being aware of, the interest of his or her spouse**[**[F137] or civil partner**]**, and in this section and those sections—

"council" includes a committee and a sub-committee of a council;

"councillor" includes a member of such a committee or sub-committee, whether he is a member of the council or not;

"matter" includes any relevant transaction (not being a contract) within the meaning of section 31 and any other matter whatsoever;

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"public body" means a body established by or under any statutory provision; and "shares" includes stock and "share capital" shall be construed accordingly.

F136 1965 c.13 (NI), 1970 c.9 (NI), 1972 NI 14, 1981 NI 3
F137 2004 c.33

Modifications etc. (not altering text)

C81 S. 146 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**

C82 S. 146 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**

C83 S. 146 applied (with modifications) (prosp.) by Justice Act (Northern Ireland) 2011 (c. 24), ss. 20(3), 111(3), **Sch. 1 para. 20** (with s. 106(4))

C84 S. 146 applied (with modifications) (prosp.) by Justice Act (Northern Ireland) 2011 (c. 24), ss. 20(4), 111(3), **Sch. 2 para. 20** (with s. 106(4))

147 Interpretation: "provide" and "maintain".

For the purposes of this Act—

(a) power to provide any thing—

(i) includes power to acquire, establish, lay out, erect or construct it and to provide buildings, works, equipment, facilities, services and amenities for or in connection with it and any other thing incidental or ancillary to it; and

(ii) also includes power to enter into arrangements with any other person for the use, on such terms as may be agreed, of any suitable thing provided by, or under the control of, that other person and, if it appears convenient, for the services of any staff employed in connection therewith;

(b) power to maintain any thing includes power to operate, manage, repair, extend, alter, improve, re-erect and renew it or any such building, works, equipment, facility, service, amenity or other thing as aforesaid.

148 General interpretation.

(1 [F138] In this Act—

"association" includes any body of persons, corporate or unincorporate;

"chief financial officer" means the officer designated as such under section 54;

"council" has the meaning assigned to it in section 1(3), and in relation to any district means the council for that district;

"councillor" has the meaning assigned to it by section 1(3), and in relation to any council means a councillor of that council;

"date of conviction" shall, where the person convicted brings any appeal or application in respect of his conviction, be taken as the date on which that appeal or application is finally disposed of or abandoned or fails by reason of non-prosecution thereof;

"day of his election" means in relation to any person claiming or alleged to be a councillor—

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(a) where his election or alleged election was contested, the day on which the result of the poll was declared; and

(b) in any other case, the day on which he was elected, or is alleged to have been elected, to act as a councillor;

"declaration" means declaration in writing;

"direction" means direction in writing; and "direct" shall be construed accordingly;

"district" has the meaning assigned to it by section 1(3), and in relation to any council means the district for which that council acts;

"elected" includes appointed, chosen, nominated or otherwise selected;

"government department" means a department of the Government of Northern Ireland;

"insurance" means a contract with any person whereby, in consideration of payments by the council by way of premium or otherwise, that person undertakes to pay to the council such sums as may be provided in the contract on the occurrence of a particular event; and "insure" shall be construed accordingly;

Defenition rep. by 1985 NI 15

"joint committee" has the meaning assigned to it by section 19(1);

[[F139]"local elector" has the same meaning as in the Electoral Law Act (Northern Ireland) 1962**]**

" the Minister" means the Minister of Development[F140];

"the Ministry", except in Schedule 6, means the Ministry of Development[F141];

"the Ministry concerned" in relation to any purpose or function means the government department concerned with that purpose or function, and if any question arises as to what department is the Ministry concerned, the question shall be determined by the Ministry of Finance;

"modify" means making additions, omissions, amendments, adaptations, applications, extensions, restrictions and substitutions;

"newspaper", in sections 24 to 26, includes any newsagency which as part of its regular business sells or otherwise supplies for reward reports or information to newspapers and any organisation which as part of its regular business collects news for sound or television broadcasts;**[**[F142] or for programmes to be included in a programme service (within the meaning of the Broadcasting Act 1990) other than a sound or television broadcasting service;**]**

"notice" means notice in writing;

"officer" includes servant;

"owner" means the person for the time being receiving the rack rent of the land in connection with which the word is used, whether on his own account or as agent or trustee for any other person, or who would so receive the same if the land were let at a rack rent;

"prescribed" means prescribed by regulations;

[F143] . . . . . .

"public body", except in section 146, means a body (other than a council) established by or under any transferred provision;

"public utility undertaking" means the provision of gas, transport or any other public service which a council is authorised to undertake;

"regulations" means regulations made by the Ministry;

"special resolution" means a resolution passed by a majority of not less than two-thirds of the whole number of the councillors at a meeting of the council which

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has been specially called for the purpose and of which at least ten days' notice, specifying the purpose of the meeting, has been given by advertisement in at least two newspapers circulating in the district of the council, in addition to the ordinary notice required to be given for convening a meeting of the council;

"the Staff Commission" has the meaning assigned to it by section 40; "provide" and "maintain" .

"statutory provision" has the meaning assigned to it by section 1(*f*) of the Interpretation Act (Northern Ireland) 1954 , and includes such a provision contained in or made under this Act or passed or made after the passing of this Act;

"transferred provision" has the meaning assigned to it by section 1(*g*) of the Interpretation Act (Northern Ireland) 1954, and includes such a provision contained in or made under this Act or passed or made after the passing of this Act;

"voluntary body" means any association carrying on or proposing to carry on any activities otherwise than for the purpose of gain by the association or by individual members thereof.

(2) For the purposes of this Act, a person shall be deemed not to withdraw from a meeting unless he removes himself outside the hall or room in which the meeting is held and outside the sight and hearing of persons present at the meeting.

(3) References in this Act to the consent or approval of any authority are references to consent or approval in writing.

[[F144](4) For the purposes of this Act references to "publicity", "publish" and "publication" are references to any communication, in whatever form, addressed to the public at large or to a section of the public.**]**

F138 1965 c.13 (NI), 1970 c.9 (NI), 1972 NI 14, 1981 NI 3
F139 1989 c.3
F140 SRO (NI) 1973/504; 1976 NI 6
F141 SRO (NI) 1973/504; 1976 NI 6
F142 1990 c.42
F143 Definition of "prohibition order" in s. 148(1) repealed (1.4.2006) by Local Government (Northern Ireland) Order 2005 (S.I. 2005/1968 (N.I. 18)), arts. 1(2), 28(8), Sch. 1; S.R. 2006/151, **art. 2**, Sch. (with art. 4)
F144 1992 NI 6

Modifications etc. (not altering text)

C85 S. 148 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**
C86 S. 148 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**

149 Amendments, repeals and savings.

Subs.(1), with Schedule 8, effects amendments
Subs.(2), with Schedule 9, effects repeals

(3) The repeal by this Act of section 22 of and Schedule 2 to the Local Government Act (Northern Ireland) 1934 and any transferred provision modifying that section and Schedule shall not prejudice the operation of that section, Schedule and provision as

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applied for the purposes of any other transferred provision passed before this Act[F145], and that section, Schedule and provision shall continue to have effect for the purposes of that other provision as if this Act had not been passed.

(4) Subject to the provisions of this Act, any reference in any unrepealed transferred provision to a transferred provision that is repealed by this Act shall, in relation to any subsequent transaction, matter or thing, be construed as a reference to so much of any provision of this Act as relates to the same subject matter as the provision so repealed, and the unrepealed transferred provision shall, with any necessary modifications, have effect accordingly; and if nothing in this Act relates to the same subject matter, the transferred provision that is so repealed shall stand good, and be read and construed as unrepealed in so far, and in so far only, as is necessary to support, maintain or give effect to the unrepealed transferred provision.

F145 1976 NI 25

150 Short title and commencement.

(1) This Act may be cited as the Local Government Act (Northern Ireland) 1972.

(2) *Commencement*

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SCHEDULES

SCHEDULE 1

Section 7.

DECLARATIONS ON ACCEPTANCE OF OFFICE

PART I

DECLARATION OF COUNCILLOR

I having been chosen Councillor for the District of hereby declare that I take the said office upon myself and will duly and faithfully fulfil the duties thereof according to the best of my judgment and ability …

[[F146F147]I affirm that I have read and will be guided by the Northern Ireland code of local government conduct in the performance of my functions as a councillor.**]**

F146 1992 NI 6
F147 1973 NI 10

Dated this day of Signed

Part II rep. by 1973 NI 10

SCHEDULE 2

Section 22.

MEETINGS AND PROCEEDINGS OF COUNCILS AND COMMITTEES

HOLDING OF MEETINGS

1 (1) The council shall in every year hold an annual meeting and such other meetings as the council thinks necessary for the transaction of general business.

(2) Subject to sub-paragraph (3) the annual meeting shall be held in the month of June in every year.

(3) In any year ([[F148] including 1973]) which is a local election year, the annual meeting shall be held within the twenty-one days immediately following the election day at twelve noon, or at such other time as the council may fix, at the offices of the council or at such other place as the Ministry may direct.

Sub-paras.(4)(5) rep. by SLR 1980

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F148 1972 NI 21

CONVENING MEETINGS

2 (1) The chairman of the council may call a meeting of the council at any time.

[[F149](2) If a requisition for a meeting of the council signed by five councillors or by one-fifth of the whole number of the councillors, whichever is the greater, is presented to the chairman of the council, he shall call a meeting of the council to be held within the period of fourteen days from the date of service of the requisition on him.

(2A) If the chairman—

(a) refuses to call a meeting of the council in accordance with sub-paragraph (2); or

(b) does not, within the period of seven days from the date of service of the requisition on him, call a meeting of the council in accordance with sub-paragraph (2),

any five councillors or one-fifth of the whole number of the councillors, whichever is the greater, may on that refusal or on the expiration of that period forthwith call a meeting of the council.**]**

(3) Three days at least before a meeting of the council—

(a) notice of the time and place of the intended meeting shall be published at the offices of the council, and where the meeting is called by councillors the notice shall be signed by them and shall specify the business proposed to be transacted thereat; and

(b) a summons to attend the meeting, specifying the business proposed to be transacted thereat and signed by the clerk of the council, shall be left at or sent by ordinary post to the usual place of residence of every councillor.

(4) Want of service of a summons under sub-paragraph (3)(*b*) shall not affect the validity of a meeting.

F149 1985 NI 15

CHAIRMAN OF MEETING

3 (1) At a meeting of the council the chairman of the council, if present, shall preside.

(2) If the chairman of the council is absent from a meeting of the council, the vice-chairman of the council, if present, shall preside.

(3) If both the chairman and the vice-chairman of the council are absent from a meeting of the council, such councillor as the councillors present may choose shall preside.

[[F150](4) Nothing in this paragraph shall authorise any councillor to preside at so much of any meeting of the council during which the business of the election of a chairman or of a vice-chairman is transacted where that councillor is a candidate for election to the office of chairman or, as the case may be, of vice-chairman.**]**

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F150 1992 NI 6

QUORUM

4 (1) Subject to sub-paragraph (2), no business shall be transacted at a meeting of the council unless at least one-quarter of the whole number of councillors are present.

(2) Where more than one-quarter of the councillors become disqualified at the same time, then, until the number of councillors in office is increased to not less than three-quarters of the whole number of councillors, the quorum of the council shall be determined by reference to the number of councillors remaining qualified instead of by reference to the whole number of councillors.

NAMES OF COUNCILLORS PRESENT TO BE RECORDED

5 The names of the councillors present at a meeting of a council shall be recorded by the clerk of the council.

PERSON AUTHORISED BY MINISTRY MAY ATTEND MEETINGS

6 A person authorised in writing by the Ministry in that behalf shall, at the request or with the agreement of the council, be entitled to attend any meeting of the council and to take part in the proceedings at the meeting, but not to vote.

DECISION ON QUESTIONS

7 (1) Subject to any statutory provision, all acts of a council and all questions coming or arising before a council shall be done and decided by a majority of the councillors present and voting thereon at a meeting of the council.

(2) In the case of an equality of votes the person presiding at the meeting shall have a second or casting vote.

MODE OF VOTING

[[F151]8 (1) The mode of voting at meetings of the council shall, except as otherwise resolved by the council, be by show of hands.

(2) On the requisition of any councillor the voting on any question shall be recorded so as to show whether each councillor present and voting gave his vote for or against that question.]

F151 1985 NI 15

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MINUTES

9 (1) Minutes of the proceedings of a meeting of a council, or of a committee or sub-committee thereof, shall be drawn up and entered in a bound book, or on loose leaves consecutively numbered, kept for that purpose, and shall be signed at the same or the next ensuing meeting of the council or, as the case may be, at the same or any subsequent meeting of the committee or sub-committee by the person presiding thereat, if approved by the meeting at which they fall to be signed.

(2) Any minute purporting to be signed as mentioned in sub-paragraph (1) shall be received in evidence without further proof.

(3) Until the contrary is proved, a meeting of a council or of a committee or sub-committee thereof in respect of the proceedings of which a minute has been so made and signed shall be deemed to have been duly convened and held, and all the members present at the meeting shall be deemed to have been duly qualified, and where the proceedings are proceedings of a committee or sub-committee, the committee or sub-committee shall be deemed to have been duly constituted and to have had power to deal with the matters referred to in the minutes.

STANDING ORDERS

10 Subject to the provisions of this Act, a council may make standing orders for the regulation of the proceedings of the council and business, and may vary or revoke any such orders.

VACANCIES, ETC., NOT TO INVALIDATE PROCEEDINGS

11 The proceedings of a council or of a committee or sub-committee thereof shall not be invalidated by any vacancy among its number or by any defect in the election or qualification of any of its members.

PROCEEDINGS OF COMMITTEES

12 (1) A council appointing a committee, and councils who concur in appointing a joint committee, may make, vary and revoke standing orders respecting the quorum, proceedings and place of meeting of the committee or joint committee, but subject to any such standing orders**[**[F152] and to section 22(2) to (4)**]** the quorum, proceedings and place of meeting shall be such as the committee or joint committee may determine.

(2) The person presiding at a meeting of any committee or joint committee shall, in the case of an equality of votes, have a second or casting vote.

F152 1992 NI 6

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SCHEDULE 3

Section 40.

THE STAFF COMMISSION

MEMBERS

1 Section 18(2) of the Interpretation Act (Northern Ireland) 1954 (except, in relation to members other than the chairman, so much of that section as relates to remuneration) shall apply to the appointment of members of the Staff Commission.

ALLOWANCES

2 The Staff Commission may pay—

(a) to its chairman such remuneration; and

(b) to its chairman and its other members such reasonable allowances in respect of expenses properly incurred in the performance of their duties;

as may be determined by the Ministry with the approval of the Ministry of Finance[F153].

F153 SR 1976/281

[[F154]2A The Staff Commission may make payments to its members for, or in relation to anything done in connection with, service as members of the Staff Commission and such payments shall be of an amount or rate to be determined by the Department with the approval of the Department of Finance and Personnel but not exceeding the amount or rate specified in or determined under the regulations under section 36(1).]

F154 1992 NI 6

EXPENSES

3 Before the commencement of each financial year the Staff Commission shall prepare an estimate of the amount of its total expenditure for that year.

4 In preparing the estimate mentioned in paragraph 3, the Staff Commission shall take into account any surplus or deficit accruing from previous years or estimated to accrue in the current year, and may also include such additional amount as is, in the opinion of the Staff Commission, required to meet contingencies.

5 The Staff Commission shall, with the approval of the Ministry, apportion the amount estimated in accordance with paragraphs 3 and 4 between expenditure arising from matters directly concerning councils [[F155], expenditure arising from matters directly concerning the Executive] and other expenditure.

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F155 1981 NI 3

6 Any question arising in connection with an apportionment under paragraph 5 shall be referred to and determined by the Ministry of Finance[F156].

F156 SR 1976/281

7 The amount apportioned under paragraph 5 as arising from matters directly concerning councils shall be further apportioned between all the councils in Northern Ireland rateably in proportion to the rateable value of the hereditaments in their districts, and the amount that is so further apportioned to each council shall be paid by that council to the Staff Commission at such time and in such manner as the Staff Commission directs.

[[F157]7A The amount apportioned under paragraph 5 as arising from matters directly concerning the Executive shall be paid to the Staff Commission by the Executive at such time and in such manner as the Staff Commission directs.]

F157 1981 NI 3

8 Any sum which is payable by a council [[F158] or, as the case may be, by the Executive] to the Staff Commission under paragraph 7 [[F158] or paragraph 7A] shall be a debt recoverable from the council [[F158] or the Executive] by the Staff Commission.

F158 1981 NI 3

9 The amount apportioned under paragraph 5 as other expenditure shall be defrayed as expenses of the Ministry.

BORROWING

10 The Staff Commission may borrow, by way of temporary loan or overdraft from a bank or otherwise, any sum which the Staff Commission temporarily requires for the purpose of defraying expenses pending the receipt of revenues receivable by it.

ACCOUNTS, ETC., AND AUDIT

11 The Staff Commission shall keep such accounts and records as the Ministry directs.

12 The accounts of the Staff Commission shall be audited annually by a local government auditor, and the provisions of**[**[F159]Part II of the Local Government (Northern Ireland) Order 2005**]** with respect to audit shall apply to that audit subject to such modifications as the Ministry directs.

F159 Words in Sch. 3 para. 12 substituted (1.4.2006) by Local Government (Northern Ireland) Order 2005 (S.I. 2005/1968 (N.I. 18)), arts. 1(2), 28(5); S.R. 2006/151, **art. 2**, Sch. (with art. 4)

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INFORMATION, REPORTS AND RETURNS

13 The Staff Commission 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.

[F160SCHEDULE 4

LOCAL GOVERNMENT BOUNDARIES COMMISSIONER

F160 Schedule 4 substituted (17.5.2006) by Local Government (Boundaries) (Northern Ireland) Order 2006 (S.I. 2006/1253 (N.I. 8)), arts. 1(2), 4(2), **Sch. 1**

PART I

APPOINTMENT, ETC.

Interpretation

1 In this Schedule "a Commissioner" means a Local Government Boundaries Commissioner.

Appointment

2 –

(1) Section 18(2) of the Interpretation Act (Northern Ireland) 1954 applies to the appointment of a Commissioner, with the omission of paragraph (b)(iii).

(2) A Commissioner shall be appointed on such terms and conditions as the Department, with the approval of the Department of Finance and Personnel, may determine.

(3) The appointment of a Commissioner shall terminate on such date after he submits his final report under section 50(6) as the Department may determine.

Assistant Commissioners and assessors

3 –

(1) The Department may, at the request of a Commissioner, appoint one or more Assistant Commissioners on such terms and conditions as the Department, with the approval of the Department of Finance and Personnel, may determine.

(2) The following shall be assessors to a Commissioner—

(a) the Registrar General for Northern Ireland;

(b) the Commissioner of Valuation for Northern Ireland;

[F161(c) the Chief Survey Officer of Land and Property Services; and]

(d) the Chief Electoral Officer for Northern Ireland.

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F161 Sch. 4 para. 3(2)(c) substituted (23.5.2008) by Local Government (Boundaries) Act (Northern Ireland) 2008 (c. 7), **ss. 2(3)(a)**, 5(1)

Officers

4 The Department shall appoint—

(a) a secretary; and

(b) such other officers to assist a Commissioner as the Department, with the approval of the Department of Finance and Personnel, may determine.

(2) The terms and conditions of any appointment under this paragraph shall be such as may be determined by the Department, with the approval of the Department of Finance and Personnel.

Remuneration and expenses

5 The remuneration and expenses of a Commissioner, any Assistant Commissioners and the secretary and any officers appointed under paragraph 4 shall be charged on and paid out of the Consolidated Fund.

PART II

PROCEDURE

Procedure for Commissioner appointed under section 50(1)(a)

6 –

(1) This paragraph applies where a Commissioner is appointed under section 50(1)(a).

(2) As soon as practicable after his appointment, the Commissioner shall make a public announcement to the effect—

(a) that he has commenced his task; and

[[F162](b) that he will in due course publish provisional recommendations and cause a public hearing to be held in each of the 11 districts mentioned in section 1 of the Local Government (Boundaries) Act (Northern Ireland) 2008.**]**

(3) Where the Commissioner has provisionally determined to make recommendations with respect to a district and the wards within a district, he shall publish in at least two newspapers circulating in that district a notice-

(a) setting out the provisional recommendations or specifying places and times at which copies of the provisional recommendations may be inspected;

(b) stating that representations in writing with respect to the provisional recommendations may be made to the Commissioner in such manner and before such date as may be specified in the notice; and

(c) stating that the public hearing required to be held by sub-paragraph (4) is to be held —

(i) at such place in the district; and

(ii) beginning at such date and time;

as may be so specified.

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(4) Where a Commissioner has published notice under sub-paragraph (3) in respect of a district, he shall, in accordance with the terms of that notice, cause a public hearing to be held in respect of—
  (a) the boundary and name of the district; and
  (b) the number, boundaries and names of the wards within that district.

(5) The Commissioner may cause additional public hearings to be held in such manner as he may direct.

(6) The Commissioner—
  (a) shall take into consideration the representations, if any, made in accordance with a notice published under sub-paragraph (3) or at a hearing under sub-paragraph (4) or (5); and
  (b) may revise any provisional recommendations.

(7) Where the Commissioner revises any provisional recommendations with respect to a district or the wards within a district, he may if he thinks fit publish in at least two newspapers circulating in that district a notice-
  (a) setting out the revised recommendations or specifying places and times at which copies of the revised recommendations may be inspected; and
  (b) stating that representations in writing with respect to the revised recommendations may, within the relevant period, be made to the Commissioner in the manner specified in the notice;

and, if the Commissioner does so, he shall take into consideration any representations made in accordance with the notice.

F162 Sch. 4 para. 6(2)(b) substituted (23.5.2008) by Local Government (Boundaries) Act (Northern Ireland) 2008 (c. 7), **ss. 2(3)(b)**, 5(1)

Procedure for Commissioner appointed under section 50(1)(b)

7 –

(1) This paragraph applies where a Commissioner is appointed under section 50(1)(b).

(2) As soon as practicable after his appointment, the Commissioner shall—
  (a) make a public announcement to the effect that he has commenced his task; and
  (b) invite proposals from councils, political parties, associations, organisations and individual members of the public.

(3) Where the Commissioner has provisionally determined to make recommendations with respect to a district or the wards within a district, he shall publish in at least two newspapers circulating in the district a notice-
  (a) setting out the provisional recommendations or specifying places and times at which copies of the provisional recommendations may be inspected; and
  (b) stating that representations in writing with respect to the provisional recommendations may, within the relevant period, be made to the Commissioner in the manner specified in the notice.

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(4) Where the period specified in a notice under paragraph (3) in relation to a district has elapsed, the Commissioner may, after giving public notice thereof, cause a public hearing to be held in that district in respect of—
   (a) the boundary and name of the district, and the number, boundaries and names of the wards within that district; or
   (b) such of those matters as are affected by the recommendations in question.

(5) Where the Commissioner receives any representations duly made in accordance with the notice under sub-paragraph (3) objecting to the recommendations he has provisionally determined to make-
   (a) from the council of the district, or
   (b) from not less than 100 local electors registered by virtue of a qualifying address in the district,

   the Commissioner shall not make the recommendations unless, since the publication of the notice, a public hearing such as is mentioned in sub-paragraph (4) has been held in the district.

(6) The Commissioner may cause additional public hearings to be held in such manner as he may direct.

(7) The Commissioner—
   (a) shall take into consideration the representations, if any, made in accordance with a notice published under sub-paragraph (3) or at a hearing under sub-paragraph (4) or (6); and
   (b) may revise any provisional recommendations.

(8) Where the Commissioner revises any provisional recommendations with respect to a district or the wards within a district, he may if he thinks fit publish in at least two newspapers circulating in that district a notice-
   (a) setting out the revised recommendations or specifying places and times at which copies of the revised recommendations may be inspected; and
   (b) stating that representations in writing with respect to the revised recommendations may, within the relevant period, be made to the Commissioner in the manner specified in the notice;

   and, if the Commissioner does so, he shall take into consideration any representations made in accordance with the notice.

Procedure for Commissioner appointed under section 50(4)

8 –

(1) This paragraph applies where a Commissioner is appointed under section 50(4).

(2) As soon as practicable after his appointment, the Commissioner shall—
   (a) make a public announcement to the effect that he has commenced his task; and
   (b) invite proposals, including proposals for modifying the proposals he has been appointed to consider, from councils, political parties, associations, organisations and individual members of the public.

(3) The Commissioner shall also publish in at least two newspapers circulating in the district a notice-

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(a) setting out the proposals he has been appointed to consider or specifying places and times at which copies of the proposals may be inspected; and

(b) stating that representations in writing with respect to the proposals may, within the relevant period, be made to the Commissioner in the manner specified in the notice.

(4) Where the period specified in a notice under paragraph (3) in relation to a district has elapsed, the Commissioner may, after giving public notice thereof, cause a public hearing to be held in that district in respect of the proposals in question.

(5) Where the Commissioner receives any representations duly made in accordance with the notice under sub-paragraph (3) objecting to the proposals he has been appointed to consider-

(a) from the council of the district, or

(b) from not less than 100 local electors registered by virtue of a qualifying address in the district,

the Commissioner shall not recommend the implementation of the proposals, unless, since the publication of the notice, a public hearing such as is mentioned in sub-paragraph (4) has been held in the district.

(6) The Commissioner may cause additional public hearings to be held in such manner as he may direct.

(7) The Commissioner—

(a) shall take into consideration the representations, if any, made in accordance with a notice published under sub-paragraph (3) or at a hearing under sub-paragraph (4) or (6); and

(b) may provisionally determine to recommend modification of the proposals.

(8) Where the Commissioner provisionally determines to recommend modification of the proposals with respect to a district or the wards within a district, he may if he thinks fit publish in at least two newspapers circulating in that district a notice-

(a) setting out the revised proposals or specifying places and times at which copies of the revised proposals may be inspected; and

(b) stating that representations in writing with respect to the revised proposals may, within the relevant period, be made to the Commissioner in the manner specified in the notice;

and, if the Commissioner does so, he shall take into consideration any representations made in accordance with the notice.

Commissioner's procedure - general

9 In relation to a notice published by a Commissioner under paragraph 6(7), 7(3) or (8) or 8(3) or (8) "the relevant period" is one month, or such longer period not exceeding two months, as the Commissioner may determine, from the date of the last publication of the notice.

10 A Commissioner may direct any hearing under this Schedule to be held before an Assistant Commissioner.

11 A Commissioner may, if he thinks fit, submit interim reports to the Department before making his final report under section 50(6).

12 Subject to paragraphs 7 to 11, a Commissioner may regulate his own procedure.

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13 Every document purporting to be an instrument made or issued by a Commissioner and to be signed by the secretary or any person authorised by the Commissioner to act in that behalf shall be received in evidence and shall, until the contrary is proved, be deemed to be an instrument made or issued by a Commissioner.

PART III

RULES IN ACCORDANCE WITH WHICH RECOMMENDATIONS OF A COMMISSIONER ARE TO BE MADE

14 Regard shall be had to the desirability of determining district and ward boundaries which are readily identifiable.

15 A townland shall not, except where in the opinion of the Commissioner it is unavoidable, be included partly in one district or ward and partly in another.

16 As far as practicable—

(a) a district shall not be wholly or substantially severed by the boundary of another district; and

(b) a district shall not be wholly or substantially encompassed within the boundary of another district.

17 In determining the number and boundaries of wards within a district regard shall be had to-

(a) the size, population and physical diversity of the district; and

(b) the desirability that there should be a proper representation of the rural and urban electorate within the district.

[[F163]18(1) Subject to sub-paragraphs (2) and (3)—

(a) in the district of Belfast the number of wards shall be 60;

(b) in each other district the number of wards shall be 40.

(2) Where, having regard to the matters mentioned in paragraph 17, the Commissioner considers it desirable that the number of wards in any district should be more than that specified in sub-paragraph (1), the number of wards in that district may be increased by not more than 5.

(3) Where, having regard to the matters mentioned in paragraph 17, the Commissioner considers it desirable that the number of wards in any district should be fewer than that specified in sub-paragraph (1), the number of wards in that district may be decreased by not more than 5.**]**

F163 Sch. 4 para. 18 substituted (23.5.2008) by Local Government (Boundaries) Act (Northern Ireland) 2008 (c. 7), **ss. 2(3)(c)**, 5(1)

19 –

(1) Within any one district there shall, as far as is reasonably practicable having regard to paragraph 17, be substantially the same number of local electors in each ward.

(2) For the purposes of sub-paragraph (1) it shall be taken that the electors in each ward are the persons registered as local electors, by virtue of a qualifying address within that ward, in the register of electors last published before the making of the announcement mentioned in paragraph 6(2), 7(2) or 8(2) (as the case may be).**]**

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SCHEDULE 5

Section 65.

SINKING FUNDS

1 If a council determines to repay by means of a sinking fund any sums borrowed by it, the sinking fund shall be formed and maintained either—

(a) by payment to the fund throughout the fixed period of such equal annual sums as will be sufficient to pay off within that period the money for the repayment of which the sinking fund is formed; or

(b) by payment to the fund throughout the fixed period of such equal annual sums as, with accumulations at such rate as the Ministry may in any particular case approve, will be sufficient to pay off within that period the money for the repayment of which the sinking fund is formed.

In this Schedule a sinking fund formed under head (*a*) is referred to as "a non-accumulating sinking fund" , and a sinking fund formed under head (*b*) as "an accumulating sinking fund" ; and "the fixed period" has the same meaning as in section 66.

2 Every sum paid to a sinking fund shall, unless applied in repayment of the money for the repayment of which the sinking fund is formed be immediately invested in a security or securities in which trustees are entitled by law to invest trust funds, and the council may vary and transpose the investments.

3 In the case of an accumulating sinking fund, the interest received in any year from the investment of the sums set apart for the purposes of the sinking fund shall form part of the revenue for that year of the district fund, but the contribution to be made to the sinking fund out of the district fund shall in that year be increased by a sum equal to the interest that would have accrued to the sinking fund during that year if interest had been accumulated therein at the rate per cent. per annum on which the annual payments to the sinking fund are based.

4 (1) A council may at any time apply the whole or any part of a sinking fund in or towards the discharge of the money for the repayment of which the sinking fund was formed.

(2) Where an accumulating sinking fund or part of such a fund is applied as mentioned in sub-paragraph (1), the council shall pay into the fund each year and accumulate during the residue of the fixed period a sum equal to the interest which would have been produced by the sinking fund or part thereof so applied if invested at the rate per cent. per annum on which the annual payments to the sinking fund are based.

5 Any surplus of a sinking fund remaining after the discharge of the whole of the money for the repayment of which it was formed shall be applied to such capital purpose as the council, with the consent of the Ministry, determines.

6 If at any time it appears to the council that the amount in a sinking fund, together with the sums which will be payable thereto in accordance with the provisions of this Schedule, and, in the case of an accumulating sinking fund, with the accumulations

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thereon, will not be sufficient to repay within the fixed period the money for the repayment of which the sinking fund is formed, the council shall, either temporarily or permanently, make such increased payments to the sinking fund as will cause the sinking fund to be sufficient for that purpose, and if it appears to the Ministry that any such increase is necessary, the council shall increase the payments to such extent as the Ministry may direct.

7 If the council desires to accelerate the repayment of any money borrowed by it, it may increase the amounts payable to the sinking fund.

8 If the amount in a sinking fund, together with the sums which will be payable thereto in accordance with the provisions of this Schedule, and also, in the case of an accumulating sinking fund, together with the accumulations thereon, will in the opinion of the Ministry be more than sufficient to repay within the fixed period the money for the repayment of which the sinking fund is formed, the council may reduce the payments to the sinking fund either temporarily or permanently to such amounts as will in the opinion of the Ministry be sufficient to repay within the fixed period the money for the repayment of which the sinking fund is formed.

9 If at any time the amount in a sinking fund, together with the accumulations thereon in the case of an accumulating sinking fund, will in the opinion of the Ministry be sufficient to repay the money for the repayment of which the sinking fund is formed within the fixed period, the Ministry may authorise the council to suspend the annual payments to the sinking fund until the Ministry otherwise directs.

F164F165F166SCHEDULE 6

Section 97.

ACQUISITION OF LAND BY VESTING ORDER

F164 1972 NI 9, 1972 NI 14, 1972 NI 17, 1972 NI 20, 1973 NI 1, 1973 NI 2, 1973 NI 16, 1973 NI 21, 1977 NI 7, 1980 NI 11, 1981 NI 3
F165 Mod. 1998 c.32
F166 mod. 2000 c.32

Modifications etc. (not altering text)

C87 Sch. 6 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), **11(4)** (with arts. 49, 62); S.R. 2006/257, **art. 2(a)**

C88 Sch. 6 applied (with modifications) (1.4.2007) by Water and Sewerage Services (Northern Ireland) Order 2006 (S.I. 2006/3336 (N.I. 21)), arts. 1(2), 216, **Sch. 7 para. 5** (with arts. 8(8), 121(3), 307); S.R. 2007/194, **art. 2(2)**, Sch. 1 Pt. II (subject to art. 3, Sch. 2)

C89 Sch. 6 modified by S.I. 1989/490 (N.I. 2) , Sch. 3 (as substituted (1.4.2007) by Laganside Corporation Dissolution Order (Northern Ireland) 2006 (S.R. 2006/527), art. 5(1), **Sch. 2 Pt. 1 para. 1(10)**)

C90 Sch. 6 applied (with modifications) (1.10.2008) by Libraries Act (Northern Ireland) 2008 (c. 8), **ss. 5(4)**, 12(2) (with s. 5(5)); S.R. 2008/396, **art. 2(d)**

C91 Sch. 6 applied (with modifications) (13.9.2010) by Forestry Act (Northern Ireland) 2010 (c. 10), ss. 5(3), 39(1), **Sch. 1 para. 2** (with s. 37); S.R. 2010/309, **art. 2**, Sch.

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PRELIMINARY PROCEDURE

1 A council which proposes to acquire land otherwise than by agreement may submit to the Ministry concerned (in this Schedule referred to as "the Ministry") an application in the prescribed form for a vesting order in respect of the land specified in the application.

2 Notice of the application, in such form and manner as the Ministry directs,—

(a) shall be published by the council on at least two occasions in the locality in which the land is situated;

(b) shall be served by the council on every person appearing to the council to have an estate in the land;

(c) shall also be served by the council on such government departments and public bodies as may be prescribed.

MAKING OF VESTING ORDER

3 (1) After the expiration of one month from the date of the last publication of the notice mentioned in paragraph 2(*a*), the Ministry,—

(a) after considering all representations which have been made to the Ministry by any interested party; and

(b) after causing a local inquiry to be held (unless no representations have been made, or any representations have been met or withdrawn or relate solely to the amount of compensation, or are representations which the Ministry is satisfied are solely of a frivolous or vexatious nature);

may,—

(i) make a vesting order, which may contain any modifications of the council's proposal that the Ministry thinks proper, vesting in the council all or any part of the land for an estate in fee simple or for such other estate as may be specified in the vesting order; or

(ii) refuse to make the order.

(2) If a local inquiry is held as aforesaid, the council and any person interested in the land, and such other persons as the person holding the inquiry may allow, shall be permitted to appear, in person or by a representative, and to be heard at the inquiry, and, before making or refusing a vesting order, the Ministry shall consider the report of the person who held the inquiry.

4 A vesting order shall contain such provisions as the Ministry thinks necessary or expedient for carrying it into effect, and may provide for the suspension of the operation of the vesting order, or any part thereof, until the council has paid, or made provision to the satisfaction of the Ministry for the payment of, compensation to persons who have an estate in the land to which the vesting order relates, or in land likely to be injuriously affected by the works proposed to be carried out by the council.

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VALIDITY AND OPERATION OF VESTING ORDERS

5 (1) The following provisions of this paragraph shall have effect with respect to the validity of a vesting order and the date on which such an order is to come into operation—

(a) as soon as may be after a vesting order has been made the council shall publish in the prescribed form and manner a notice, stating that the vesting order has been made and naming a place where a copy of the vesting order and of any map or plan referred to in it may be seen at all reasonable hours, and shall serve a like notice on every person who, having given notice to the Ministry of his objection to the application for the vesting order, appeared at a local inquiry in support of his objection;

(b) if any person aggrieved by a vesting order desires to question its validity on the ground that it is not within the powers conferred by this Act or that the procedure specified in this Schedule has not been complied with, he may, within one month from the publication of the notice of the making of the vesting order, make an application for the purpose to the High Court in accordance with rules of court, and on such an application the court—

(i) may by interim order suspend the operation of the vesting order, either generally or in so far as it affects any property of the applicant, until the final determination of the proceedings;

(ii) if satisfied upon the hearing of the application that the vesting order is not within the powers conferred by this Act, or that the interests of the applicant have been substantially prejudiced by any requirement of this Schedule not having been complied with, may quash the vesting order either generally or in so far as it affects any property of the applicant;

(iii) if not so satisfied, shall dismiss the application;

(c) subject to head (*b*), a vesting order or the making of such an order shall not be questioned in any legal proceedings whatsoever, and a vesting order shall become operative at the expiration of a period of one month from the date on which the notice of the making thereof is published in accordance with the provisions of head (*a*);

(d) as soon as may be after a vesting order has become operative the council shall serve on every person appearing to it to have an estate in the land to which the vesting order relates either a copy of the vesting order or a notice in the prescribed form stating that the vesting order has become operative and naming a place where a copy of the vesting order and of any map or plan referred to therein may be seen at all reasonable hours and may be obtained free of charge upon written request made by or on behalf of any person having an estate in the land.

(2) Notice of a vesting order that has become operative shall be served by the council on such government departments and public bodies as may be prescribed.

6 (1) Subject to sub-paragraph (3), a vesting order shall operate, without further assurance, to vest in the council, as from the date on which the vesting order becomes operative (in this Schedule referred to as “the date of vesting”), an estate in fee simple or such other estate (if any) in, to or over the land to which it relates as is therein specified, freed and discharged from all claims or estates whatsoever (except as is specified in the order).

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(2) To the extent to which compensation is payable in accordance with the provisions of this Schedule, as from the date of vesting the rights and claims of all persons in respect of any land acquired by the vesting order shall be transferred and attached to the fund out of which the expenses of the council in acquiring the land are to be defrayed (in this Schedule referred to as "the compensation fund"), and shall be discharged by payments out of the compensation fund.

(3) Where a vesting order relates to registered land, the council, before lodging the vesting order with the Registrar of Titles, shall endorse upon the vesting order the date on which it would have become operative were it not for the provisions of this sub-paragraph, and in relation to such land the date of vesting shall, notwithstanding anything in sub-paragraph (1), be the date so endorsed or the date on which the order is so lodged, whichever is the later, and that sub-paragraph shall have effect accordingly.

7 A vesting order, or the title created by such an order (if it relates to registered land), shall forthwith upon lodgment of the order, be registered in the Registry of Deeds or, as the case requires, the Land Registry.

8 [F167] Where a vesting order relates to any land forming part of a holding which is subject to the future payment of an annuity under the Land Purchase Acts, it shall not be necessary for any consent or authority for the sub-division of the holding to be given under any provision of those Acts, other than the consent of the Ministry of Finance to any apportionment of the annuity.

F167 1982 NI 6

9 On and after the date of vesting the council or any person authorised by the council may enter upon and use the land to which the vesting order relates.

10 (1) Section 92 of the Lands Clauses Consolidation Act 1845 shall not have effect in relation to any acquisition of land by means of a vesting order.

(2) Where a vesting order applies to part only of a house, building or factory, a person having an estate in the whole thereof may, within six weeks from the date on which the order becomes operative, serve a notice on the council, requiring the council to acquire the remainder thereof.

(3 [F168] Where a notice is served on the council under sub-paragraph (2) the council shall acquire the remainder of the house, building or factory unless the Lands Tribunal determines that the acquisition of the part thereof acquired by means of the vesting order has not caused material detriment to the house, building or factory.

(4) Where the council acquires the remainder of a house, building or factory in pursuance of sub-paragraph (3), any question as to the amount payable in respect thereof shall be determined as if that remainder had been acquired by means of a vesting order.

F168 1973 NI 21

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REFERENCE OF DISPUTED CASES TO THE LANDS TRIBUNAL

11 (1) As soon as a vesting order has become operative, any question of disputed compensation arising between the council and any person who—

(a) has an estate in any land to which the vesting order relates or would have such an estate if the order had not become operative, or

(b) has an estate in any land injuriously affected by the works proposed to be carried out by the council,

shall be referred to and determined by the Lands Tribunal.

(2) Where the person entitled to compensation under this Schedule is not known or cannot be found or neglects or refuses to produce his title or to claim the compensation, or where a person claiming compensation is not absolutely entitled to the compensation or is under any disability the council may refer to the Lands Tribunal any question in connection with the compensation and that question shall be deemed to be a question of disputed compensation for the purposes of this Schedule.

(3 [F169] Where a vesting order relates to land forming part of a holding which is subject to the payment of an annuity under the Land Purchase Acts, the council shall give to the Ministry of Finance notice in the prescribed form of any agreement for the payment of compensation by the council to any person who has an estate in the land, and if the Ministry of Finance notifies the council of its intention to bring before the Lands Tribunal any question with respect to the apportionment or redemption of the annuity, that question shall be deemed to be a dispute between the Ministry of Finance and any person claiming compensation in relation to the lands and the provisions of this Schedule shall apply as they apply to a question of disputed compensation.

F169 1982 NI 6

12 (1) When any question of disputed compensation arises, the council shall as soon as practicable thereafter cause to be made out such maps and schedules as may be prescribed of any lands to which the vesting order relates and of any other lands which, it is claimed, may be injuriously affected by the works proposed to be carried out by the council (in this Schedule referred to as "the scheduled lands"), together with the names, so far as they can be reasonably ascertained, of all persons who immediately prior to the making of the vesting order were interested in the lands as owners or reputed owners, lessees or reputed lessees, or occupiers.

(2) The council shall deliver to the appropriate officer of the Lands Tribunal one copy of each of the maps and schedules certified by the clerk of the council as correct, and shall publish, in such form and manner as the Ministry directs, a notice stating that such documents have been delivered and the times and place at which copies of them may be inspected by any person desiring to inspect them.

SPECIAL POWERS OF THE LANDS TRIBUNAL

13 (1) The Lands Tribunal shall have the same power of apportioning any rent-service, rent-charge, chief or other rent, payment or incumbrance as two justices have under the Lands Clauses Consolidation Act 1845 .

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(2) Subject to the provisions of paragraph 16, the amount of compensation to be paid in pursuance of section 124 of the Lands Clauses Consolidation Act 1845 in respect of any estate in any of the scheduled lands which the council has through mistake or inadvertence failed or omitted duly to make compensation for, shall be awarded by the Lands Tribunal and paid in like manner, as nearly as may be, as the same would have been awarded and paid if the claim of such estate had been delivered to the Lands Tribunal before the day fixed for the delivery of statements of claim.

(3 [F170] In determining the amount of any disputed compensation, the Lands Tribunal shall have regard to the extent to which any remaining and contiguous land, belonging to the same proprietor, may be benefited by any proposed work or any proposed use of land for which the land to which the vesting order relates is acquired by the council.

(4) In determining the amount of any disputed compensation, the Lands Tribunal shall not award any sum of money for or in respect of any improvement or alteration made, or building erected, after the date of the first publication by the council of the notice mentioned in paragraph 2 if, in the opinion of the Lands Tribunal, the improvement, alteration, or building in respect of which the claim is made was made or erected with a view to obtaining or increasing compensation; nor, in respect of any estate created after the said date in any land to which the vesting order relates, shall any sum of money be awarded so as to increase the total amount of compensation which would otherwise have been required to be paid in respect of the acquisition of the land.

F170 1973 NI 21

Satisfaction of claims

14 (1) The council, on paying to any person any compensation (whether the amount has been settled by agreement or determined by the Lands Tribunal), shall obtain from that person a receipt in the prescribed form, which shall be prepared by, and executed at the cost of, the council, and the receipt shall operate to release the compensation fund from all claims by the person giving it and all parties claiming through or under him.

(2) The council shall pay the costs reasonably incurred by any person claiming compensation, to whom compensation is found due, of furnishing any statement, abstract or other evidence of title required by the council to be furnished by him.

15 (1) Where the compensation payable (whether the amount thereof has been settled by agreement or determined by the Lands Tribunal) to any person does not exceed the sum of £100, and the claimant makes a statutory declaration in the prescribed form stating whether he claims as absolute or as limited owner, and gives prima facie evidence which satisfies the council that for not less than six years immediately preceding he, or his immediate predecessor in title, has been personally or by an agent in receipt of the rents or profits, or in actual occupation, of the land in respect of which compensation is payable, the council may pay to the person claiming as absolute owner the compensation payable for the estate in respect of which he claims, and, where a person claims as limited owner of any estate, the council may pay the compensation payable for that estate to the trustees of the settlement under which the limited owner claims.

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(2) Where any compensation not exceeding the sum of £100 is payable in respect of an estate which is subject to any mortgage or charge (not being a charge consisting of an annuity under the Land Purchase Acts or a charge in respect of any sums repayable in respect of a loan made by any government department), the compensation may be paid to the person entitled to the mortgage or charge, or, if there is more than one such mortgage or charge, then the person entitled to the mortgage or charge which is first in priority, and the amount so paid shall be received in reduction of the principal sum for the time being owing in respect of the mortgage or charge, notwithstanding any direction, proviso or covenant to the contrary contained in any instrument; and where the compensation is paid to a mortgagee or chargeant, the receipt given by the mortgagee or chargeant shall release the compensation fund from all claims by him and any subsequent mortgagee or chargeant, and also from all claims by the person creating the mortgage or charge and all persons claiming through or under that person.

(3) A memorandum of the amount paid under sub-paragraph (2) shall, when practicable, be endorsed on the instrument creating the mortgage or charge, and shall be signed by the person receiving the compensation, and a copy of the memorandum shall be furnished by the council at its expense to all persons appearing to the council to be entitled to any estate in the land subject to the mortgage or charge.

16 Any person claiming to be entitled to any money paid to another person pursuant to the foregoing provisions of this Schedule may, within six years after the payment has been made, on giving such notice as may be required by rules of court or, as the case requires, county court rules, apply for relief to the High Court, where the amount exceeds 1,000, or to the county court within the jurisdiction of which the land in respect of which the money has been paid is situated, where the amount claimed does not exceed 1,000; and the court may either dismiss the application, or give judgment or make a decree against the council for the amount found due in respect of the claim, and any sum so awarded shall be a debt due to the council by the person to whom the money was paid by it, arising at the date of the judgment or decree.

17 [F171](1) Where the amount of compensation has been determined but for some reason it is not possible for the council to obtain a good discharge therefor,—

(a) if the total amount of the compensation does not exceed £1,000, the council shall pay the money into the county court and that court shall have with respect thereto all the jurisdiction exercisable by the High Court under the Lands Clauses Acts;

(b) if the total amount of the compensation exceeds £1,000, the amount payable by the council shall be paid, applied and dealt with in accordance with the provisions of the Lands Clauses Consolidation Act 1845 with respect to the purchase money or compensation coming to parties having limited interests, or prevented from treating, or not making title, and those provisions shall have effect accordingly.

(2) Money paid into the county court or, as the case may be, the High Court under sub-paragraph (1) shall, subject to county court rules or rules of court, be dealt with according to the orders of the court.

(3) The payment of the compensation in the manner provided by sub-paragraph (1) shall operate to discharge the compensation fund from all claims and interests in respect of which the compensation is payable.

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F171 1973 NI 21

18 (1) The council shall pay interest upon the compensation money from the date of the vesting of the land in respect of which the compensation is payable until the time of the payment of the money and interest to the party entitled thereto, or, where such compensation is paid into court, then until the sum with such interest is paid into court accordingly.

(2) The rate of interest payable under this paragraph shall be such rate as is determined by order made by the Ministry of Finance.

Modifications etc. (not altering text)

C92 Sch. 6 para. 18 applied (1.2.2007) by Water Abstraction and Impoundment (Licensing) Regulations (Northern Ireland) 2006 (S.R. 2006/482), reg. 22(4), **Sch. 2 para. 7** (with reg. 3)(1)

Payment of Ministry's costs by council

19 (1) All costs incurred by the Ministry in carrying the provisions of this Schedule into execution in connection with the acquisition of land by the council shall be paid by the council.

(2) Where any costs are incurred as mentioned in sub-paragraph (1), the Ministry shall—

(a) prepare a statement of the costs and send it to the council;

(b) consider any representations that are made by the council, within such period as the Ministry specifies, as to the reasonableness of the costs; and

(c) certify the amount of the costs.

(3) A certificate under sub-paragraph (2)(*c*) shall be evidence of the amount of the costs.

(4) The amount of the costs shall be a debt recoverable summarily by the Ministry from the council.

Interpretation

20 (1) For the purposes of this Schedule the interest of a grantee under a fee farm grant shall be deemed to be a lesser estate than a fee simple.

(2) In this Schedule “the Ministry” has the meaning assigned to it by paragraph 1.

SCHEDULE 7

Section 142.

PROVISIONS APPLIED TO JOINT COMMITTEES

Section	*General subject matter of provision*
6	Penalties for acting while disqualified.

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[[F172]22(2)#(4)**]**	**[**[F172]Duty to adopt certain procedural standing orders.**]**
23	Admission of public to meetings.
24	Information to be given as to meetings.
25	Facilities for newspaper representatives.
26	Certain publications to be privileged.
27	Savings.
28	Disclosure of councillors' pecuniary interests and disability from voting on account thereof.
29	Restrictions on application of section 28.
30	Relatives of councillors.
31	Recovery of wrongful gains and remedies against councillor guilty of reprehensible conduct.
32	Ancillary powers of the High Court in exercising jurisdiction under section 31.
33	Time limit for proceedings under sections 28, 30 and 31.
36	Payments to councillors.
39	Insurance against accidents to councillors.
40	The Staff Commission.
41	Appointment and qualification of officers.
42	Councillors not to be appointed officers.
. . . **F173**	#
44	Retirement of officers.
45	Insurance against default of officers.
46	Duty of officers to disclose pecuniary interest.
47	Publication of acceptance of unauthorised fee or reward.
[[F174]47A**]**	**[**[F174]Delegation of functions to officers.**]**
48	Protection for officer acting in execution of duty.
F175	**F175**
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F175	**F175**
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[F172 107**]**	**[**F172 Contributions for development of trade, tourism, and cultural activities.**]**
[F172 108**]**	**[**F172 Contributions to other voluntary bodies.**]**
[F172 110**]**	**[**F172 Information centres.**]**
112	Insurance.
[F172 115**]**	**[**F172 Expenditure for special purposes.**]**
[F172 115A**]**	**[**F172 Prohibition of political publicity.**]**
[F172 115B**]**	**[**F172 Codes of recommended practice as regards publicity.**]**
[F172 115C**]**	**[**F172 Separate account of expenditure on publicity.**]**
[F172 115D**]**	**[**F172 Sections 115A to 115C: supplementary provisions.**]**
119	Evidence of resolutions, etc.
121	Inspection of documents.
122	Public notices.
123	Penalty for destroying notices.
124	Authentication of documents.
125	Custody of records.
127	Information, reports and returns.
128	Inquiries and investigations.
146	Interpretation: pecuniary interests.
148	General interpretation.

F172 1992 NI 6
F173 1973 NI 10

Status: *Point in time view as at 01/07/2008.*
Changes to legislation: *There are outstanding changes not yet made by the legislation.gov.uk editorial team to Local Government Act (Northern Ireland) 1972. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details)*

F174 1985 NI 15

F175 In Sch. 7 the entries relating to ss. 76-82 repealed (1.4.2006) by Local Government (Northern Ireland) Order 2005 (S.I. 2005/1968 (N.I. 18)), arts. 1(2), 28(8), Sch. 1; S.R. 2006/151, **art. 2**, Sch. (with art. 4)

Schedule 8 —Amendments

Schedule 9—Repeals

Status:
Point in time view as at 01/07/2008.

Changes to legislation:
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