



# Local Government Act (Northern Ireland) 1972

## 1972 CHAPTER 9

### 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 [<sup>F1</sup>eighteen] years and is a [<sup>F2</sup>qualifying Commonwealth citizen] or [<sup>F3</sup> a citizen of the Republic of Ireland][<sup>F4</sup> 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 [<sup>F4</sup> “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 [<sup>F5</sup>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.

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- (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.
- [<sup>F6</sup>(4) In the application of this section to a person who is a candidate to be returned under section 11D, 11E or 11F (casual vacancies) of the Electoral Law Act (Northern Ireland) 1962, references to the date on which the person is nominated as a candidate are to the date of the person's response under section 11D or declaration under section 11E or 11F (as the case may be).]
- [<sup>F7</sup>(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).]

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| <b>F1</b> | Words in s. 3(1) substituted (7.2.2007) by <a href="#">Electoral Administration Act 2006 (c. 22)</a> , ss. <a href="#">17(6)</a> , <a href="#">77(2)</a> ; <a href="#">S.I. 2007/230</a> , <a href="#">art. 2</a>  |
| <b>F2</b> | Words in s. 3(1) substituted (1.7.2008) by <a href="#">Electoral Administration Act 2006 (c. 22)</a> , ss. <a href="#">18(6)</a> , <a href="#">77(2)</a> , <a href="#">Sch. 1 para. 47(2)</a> ; <a href="#">S.I. 2008/1316</a> , <a href="#">arts. 2(2)(3)</a> , <a href="#">4(b)</a> , <a href="#">5(f)(i)</a>        |
| <b>F3</b> | <a href="#">1989 c.3</a>   |
| <b>F4</b> | <a href="#">SI 1995/1948</a>   |
| <b>F5</b> | Word in s. 3(2) inserted (1.7.2008) by <a href="#">Electoral Administration Act 2006 (c. 22)</a> , ss. <a href="#">18(6)</a> , <a href="#">77(2)</a> , <a href="#">Sch. 1 para. 47(3)</a> ; <a href="#">S.I. 2008/1316</a> , <a href="#">arts. 2(2)(3)</a> , <a href="#">4(b)</a> , <a href="#">5(f)(i)</a>            |
| <b>F6</b> | <a href="#">S. 3(4)</a> inserted (1.4.2010) by virtue of <a href="#">Electoral Law Act (Northern Ireland) 1962 (Amendment) Order 2010 (S.I. 2010/1178)</a> , <a href="#">arts. 1(2)</a> , <a href="#">5(2)</a>   |
| <b>F7</b> | <a href="#">S. 3(4)(5)</a> inserted (1.7.2008) by <a href="#">Electoral Administration Act 2006 (c. 22)</a> , ss. <a href="#">18(6)</a> , <a href="#">77(2)</a> , <a href="#">Sch. 1 para. 47(4)</a> ; <a href="#">S.I. 2008/1316</a> , <a href="#">arts. 2(2)(3)</a> , <a href="#">4(b)</a> , <a href="#">5(f)(i)</a> |

#### 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
  - [<sup>F8</sup>(b) is the subject of a bankruptcy restrictions order or interim order;]
  - [<sup>F9</sup>(c) he is disqualified for being elected or being a councillor under Article 19 or 20 of the Local Government (Northern Ireland) Order 2005;]
  - [<sup>F10</sup>(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<sup>F10</sup> . . . been guilty of any conduct which the

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- High Court has by order declared was reprehensible within the meaning of section 31; or
- [<sup>F10</sup>(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).
- [<sup>F11</sup>(f) he has received a severance payment (within the meaning of section 19 of the Local Government (Miscellaneous Provisions) Act (Northern Ireland) 2010).]

*Subs.(2) rep. by 1985 NI 15*

- [<sup>F10</sup>(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.]
- [<sup>F12</sup>(5) In the application of this section to a person who is a candidate to be returned under section 11D, 11E or 11F (casual vacancies) of the Electoral Law Act (Northern Ireland) 1962, references to the day of the person's election are to the date of the person's response under section 11D or declaration under section 11E or 11F (as the case may be).]

- F8** 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)
- F9** 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)
- F10** 1989 c.3
- F11** S. 4(1)(f) added (27.3.2010) by [Local Government \(Miscellaneous Provisions\) Act \(Northern Ireland\) 2010 \(c. 7\)](#), **ss. 19(4), 26(1)(b)**
- F12** S. 4(5) inserted (1.4.2010) by [Electoral Law Act \(Northern Ireland\) 1962 \(Amendment\) Order 2010 \(S.I. 2010/1178\)](#), arts. 1(2), **5(3)**

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**5 Disqualifications to become inapplicable in certain cases.**

F13  
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**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.
- (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.

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**[<sup>F15</sup>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

**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.**

- [<sup>F16</sup>(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

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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<sup>F17</sup> otherwise than under Article 19 or 20 of the Local Government (Northern Ireland) Order 2005 or by reason of] a conviction<sup>F18</sup> 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 statutory 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.

**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) [<sup>F19</sup>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.

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### **[<sup>F20</sup>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<sup>[F21]</sup>, 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.
  - (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.
- <sup>[F22]</sup>(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.

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## **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 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.



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- (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.

**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.

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- (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;
  - (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)

**[<sup>F23</sup>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,

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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.
- (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.

[<sup>F24</sup>(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.

[<sup>F24</sup>(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;

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- (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—
  - (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,

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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 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)**

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**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\(b\)\(g\)\(iii\)](#)

## PECUNIARY INTERESTS

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

<sup>F25</sup>(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

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- 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<sup>F26</sup> 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<sup>F27</sup> 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
- (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**

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**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.

- <sup>F28</sup>(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 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.

- <sup>F29</sup>(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



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- (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<sup>F30</sup> 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<sup>F31</sup> or civil partners] or if the officer or candidate, or the husband or wife<sup>F31</sup> 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<sup>F31</sup> 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))

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**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.**

- <sup>F32</sup>(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—
- (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

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- (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)**
- 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.**

<sup>F33</sup>(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.

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- (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<sup>F34</sup> an inspector appointed under section 431 of the Companies Act 1985; and accordingly sections 433 to 436 of that Act (powers etc) apply for the purposes of an investigation by an inspector appointed under subsection (1)(b) above as they apply for the purposes of an investigation by an inspector appointed under section 431 of that Act.]
- (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.
- (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

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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** Words in s. 32(4) substituted (1.10.2009) by Companies Act 2006 (Consequential Amendments, Transitional Provisions and Savings) Order 2009 (S.I. 2009/1941), art. 2(1), **Sch. 1 para. 25** (with art. 10)

**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**

**C34** S. 32 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))

**C35** S. 32 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))

**33 Time limit for proceedings under sections 28, 30 and 31.**

<sup>F35</sup>(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.

(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)**

**C36** 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**

**C37** 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**

**C38** 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))

**C39** 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))

*Status: Point in time view as at 01/04/2010.*

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

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.**

<sup>F36</sup>(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;
- (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 [<sup>F37</sup> 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

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*Status: Point in time view as at 01/04/2010.*

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

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### **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 [<sup>F38</sup> 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.
- (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.

**Status:**

Point in time view as at 01/04/2010.

**Changes to legislation:**

There are currently no known outstanding effects for the Local Government Act (Northern Ireland) 1972, PART II.