



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 [^{F1}eighteen] years and is a [^{F2}qualifying Commonwealth citizen] or [^{F3} a citizen of the Republic of Ireland][^{F4} 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 [^{F4} “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 [^{F5}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.
- [^{F6}(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).]
- [^{F7}(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).]

- F1** 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](#)
- F2** 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\(f\)\(i\)](#)
- F3** 1989 c.3
- F4** SI 1995/1948
- F5** 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\(f\)\(i\)](#)
- F6** S. 3(4) inserted (1.4.2010) by virtue of [Electoral Law Act \(Northern Ireland\) 1962 \(Amendment\) Order 2010 \(S.I. 2010/1178\), arts. 1\(2\), 5\(2\)](#)
- F7** 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\(f\)\(i\)](#)

Modifications etc. (not altering text)

- C1** S. 3 modified (3.10.2013) by [The Local Government \(Boundaries\) \(2008 Act\) \(Commencement, Transitional Provision and Savings\) Order \(Northern Ireland\) 2013 \(S.R. 2013/238\), art. 3\(3\)](#) (with art. 3(4))

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 [^{F8}employment, appointments to which are made by a council if it is a prescribed office or employment]; or
 - [^{F9}(b) is the subject of—
 - (i) a bankruptcy restrictions order ^{F10}...; or
 - (ii) a debt relief restrictions order ^{F10}...;]
 - [^{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;]

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- [^{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).
- [^{F13}(f) he has received a severance payment (within the meaning of section 19 of the Local Government (Miscellaneous Provisions) Act (Northern Ireland) 2010).]
- [^{F14}(1A) The Department must by 30th September 2014 make regulations under subsection (1) (a).]
- 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.]
- [^{F15}(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).]

Status: Point in time view as at 01/04/2015.

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)*

- F8** Words in s. 4(1)(a) substituted (1.2.2015) by [Local Government Act \(Northern Ireland\) 2014 \(c. 8\), ss. 5\(1\), 129](#) (with s. 124(4)); S.R. 2015/28, art. 2(a)
- F9** S. 4(1)(b) substituted (30.6.2011) by [Debt Relief Act \(Northern Ireland\) 2010 \(c. 16\), ss. 6, 7\(1\), Sch. para. 1; S.R. 2011/13, art. 2](#)
- F10** Words in s. 4(1)(b)(i)(ii) repealed (1.4.2015) by [Local Government Act \(Northern Ireland\) 2014 \(c. 8\), s. 129, Sch. 10](#) (with s. 124(4)); S.R. 2015/209, art. 2, Sch. 1
- 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
- F13** S. 4(1)(f) added (27.3.2010) by [Local Government \(Miscellaneous Provisions\) Act \(Northern Ireland\) 2010 \(c. 7\), ss. 19\(4\), 26\(1\)\(b\)](#)
- F14** S. 4(1A) inserted (2.6.2014) by [Local Government Act \(Northern Ireland\) 2014 \(c. 8\), ss. 5\(2\), 129](#) (with s. 124(4)); S.R. 2014/153, art. 2, Sch. 1
- F15** 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\(3\)](#)

Modifications etc. (not altering text)

- C2** S. 4 modified (3.10.2013) by [The Local Government \(Boundaries\) \(2008 Act\) \(Commencement, Transitional Provision and Savings\) Order \(Northern Ireland\) 2013 \(S.R. 2013/238\), art. 3\(3\)](#) (with art. 3(4))
- C3** S. 4(1)(c) modified (3.10.2013) by [The Local Government \(Boundaries\) \(2008 Act\) \(Commencement, Transitional Provision and Savings\) Order \(Northern Ireland\) 2013 \(S.R. 2013/238\), art. 3\(4\)](#)
- C4** S. 4(1)(e) modified (3.10.2013) by [The Local Government \(Boundaries\) \(2008 Act\) \(Commencement, Transitional Provision and Savings\) Order \(Northern Ireland\) 2013 \(S.R. 2013/238\), art. 3\(4\)](#)

5 Disqualifications to become inapplicable in certain cases.

F16

- F16** 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^[F17] 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^[F17] 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.

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- (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.

F17 1984 NI 3

Modifications etc. (not altering text)

- C5 S. 6 modified (3.10.2013) by [The Local Government \(Boundaries\) \(2008 Act\) \(Commencement, Transitional Provision and Savings\) Order \(Northern Ireland\) 2013 \(S.R. 2013/238\)](#), **art. 3(3)** (with art. 3(4))
- C6 S. 6 applied (2.6.2014 for specified purposes) by [Local Government Act \(Northern Ireland\) 2014 \(c. 8\)](#), **ss. 15(2)**, 129 (with s. 124(4)); S.R. 2014/153, art. 3, Sch. 2

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.

Modifications etc. (not altering text)

- C7 S. 7 applied (with modifications) (28.5.2014) by [The Local Government \(Transitional, Supplementary, Incidental Provisions and Modifications\) Regulations \(Northern Ireland\) 2014 \(S.R. 2014/148\)](#), regs. 1(1), **5(3)**

F18^{7A} Northern Ireland code of local government conduct.

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- F18 S. 7A repealed (1.4.2015) by [Local Government Act \(Northern Ireland\) 2014 \(c. 8\)](#), s. 129, **Sch. 10** (with s. 124(4)); S.R. 2015/209, art. 2, Sch. 1

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.

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9 Vacation of office on account of non-attendance.

^{F19}(1) Subject to subsections (2) [^{F20}to (4)] , 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 [^{F21}31 of the Local Government Finance Act (Northern Ireland) 2011],

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.

^{F22}(4) Any period during which a councillor is suspended or partially suspended under Part 9 of the Local Government Act (Northern Ireland) 2014 is to be disregarded for the purpose of calculating the period of six months under subsection (1) (and accordingly—

(a) a period during which a councillor fails to attend meetings of the council that falls immediately before, and

(b) a period during which a councillor fails to attend meetings of the council that falls immediately after,

a period of suspension or partial suspension are to be treated as consecutive).]

F19 1995 NI 5

F20 Words in s. 9(1) substituted (2.6.2014) by [Local Government Act \(Northern Ireland\) 2014 \(c. 8\)](#), s. 129, **Sch. 9 para. 1(a)** (with s. 124(4)); S.R. 2014/153, art. 2, Sch. 1

F21 Words in s. 9(2)(b) substituted (1.4.2012) by [Local Government Finance Act \(Northern Ireland\) 2011 \(c. 10\)](#), ss. 45, 47(2), **Sch. 1 para. 1**; S.R. 2011/306, **art. 2(3)**

F22 S. 9(4) added (2.6.2014) by [Local Government Act \(Northern Ireland\) 2014 \(c. 8\)](#), s. 129, **Sch. 9 para. 1(b)** (with s. 124(4)); S.R. 2014/153, art. 2, Sch. 1

10 Declaration of vacancy in office in certain cases.

Where a councillor—

(a) becomes disqualified for being a councillor^{F23} otherwise than under Article 19 or 20 of the Local Government (Northern Ireland) Order 2005 or by reason of] a conviction^{F24} 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

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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.

- F23** 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)
- F24** 1992 NI 6

CHAIRMAN AND VICE-CHAIRMAN

^{F25} 11 **Chairman.**

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- F25** Ss. 11-27 repealed (1.4.2015) by [Local Government Act \(Northern Ireland\) 2014 \(c. 8\)](#), s. 129, [Sch. 10](#) (with s. 124(4)); S.R. 2015/209, [art. 2](#), Sch. 1

12 **Payment of allowance to chairman.**

^{F26}

- F26** S. 12 repealed (1.4.2012) by [Local Government Finance Act \(Northern Ireland\) 2011 \(c. 10\)](#), ss. 46, 47(2), [Sch. 2](#); S.R. 2011/306, [art. 2\(3\)](#)

^{F25} 12A **Election of chairman.**

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- F25** Ss. 11-27 repealed (1.4.2015) by [Local Government Act \(Northern Ireland\) 2014 \(c. 8\)](#), s. 129, [Sch. 10](#) (with s. 124(4)); S.R. 2015/209, [art. 2](#), Sch. 1

^{F25} 13 **Vice-chairman.**

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- F25** Ss. 11-27 repealed (1.4.2015) by [Local Government Act \(Northern Ireland\) 2014 \(c. 8\)](#), s. 129, [Sch. 10](#) (with s. 124(4)); S.R. 2015/209, [art. 2](#), Sch. 1

^{F25} 14 **Declaration of acceptance of office.**

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F25 Ss. 11-27 repealed (1.4.2015) by Local Government Act (Northern Ireland) 2014 (c. 8), s. 129, **Sch. 10** (with s. 124(4)); S.R. 2015/209, art. 2, Sch. 1

F25 15 Resignation.

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F25 Ss. 11-27 repealed (1.4.2015) by Local Government Act (Northern Ireland) 2014 (c. 8), s. 129, **Sch. 10** (with s. 124(4)); S.R. 2015/209, art. 2, Sch. 1

F25 16 Vacation of office on account of absence from district.

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F25 Ss. 11-27 repealed (1.4.2015) by Local Government Act (Northern Ireland) 2014 (c. 8), s. 129, **Sch. 10** (with s. 124(4)); S.R. 2015/209, art. 2, Sch. 1

F25 17 Casual vacancy in office of chairman.

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F25 Ss. 11-27 repealed (1.4.2015) by Local Government Act (Northern Ireland) 2014 (c. 8), s. 129, **Sch. 10** (with s. 124(4)); S.R. 2015/209, art. 2, Sch. 1

COMMITTEES

F25 18 Power to appoint committees and sub-committees.

.....

F25 Ss. 11-27 repealed (1.4.2015) by Local Government Act (Northern Ireland) 2014 (c. 8), s. 129, **Sch. 10** (with s. 124(4)); S.R. 2015/209, art. 2, Sch. 1

F25 19 Joint committees.

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F25 Ss. 11-27 repealed (1.4.2015) by Local Government Act (Northern Ireland) 2014 (c. 8), s. 129, **Sch. 10** (with s. 124(4)); S.R. 2015/209, art. 2, Sch. 1

F25 19A Voting rights of members of committees, sub-committees and joint committees.

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F25 Ss. 11-27 repealed (1.4.2015) by Local Government Act (Northern Ireland) 2014 (c. 8), s. 129, **Sch. 10** (with s. 124(4)); S.R. 2015/209, art. 2, Sch. 1

F25 **20 Expenses of joint committees.**

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F25 Ss. 11-27 repealed (1.4.2015) by Local Government Act (Northern Ireland) 2014 (c. 8), s. 129, **Sch. 10** (with s. 124(4)); S.R. 2015/209, art. 2, Sch. 1

F25 **21 Disqualification for membership of committees.**

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F25 Ss. 11-27 repealed (1.4.2015) by Local Government Act (Northern Ireland) 2014 (c. 8), s. 129, **Sch. 10** (with s. 124(4)); S.R. 2015/209, art. 2, Sch. 1

PROCEDURE OF COUNCIL AND COMMITTEES

F25 **22 Meetings and proceedings.**

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F25 Ss. 11-27 repealed (1.4.2015) by Local Government Act (Northern Ireland) 2014 (c. 8), s. 129, **Sch. 10** (with s. 124(4)); S.R. 2015/209, art. 2, Sch. 1

ADMISSION TO MEETINGS

F25 **23 Admission of public to meetings.**

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F25 Ss. 11-27 repealed (1.4.2015) by Local Government Act (Northern Ireland) 2014 (c. 8), s. 129, **Sch. 10** (with s. 124(4)); S.R. 2015/209, art. 2, Sch. 1

F25 **24 Information to be given as to meetings.**

.....

F25 Ss. 11-27 repealed (1.4.2015) by Local Government Act (Northern Ireland) 2014 (c. 8), s. 129, **Sch. 10** (with s. 124(4)); S.R. 2015/209, art. 2, Sch. 1

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F25 25 Facilities for newspaper representatives.

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F25 Ss. 11-27 repealed (1.4.2015) by [Local Government Act \(Northern Ireland\) 2014 \(c. 8\)](#), s. 129, [Sch. 10](#) (with s. 124(4)); S.R. 2015/209, art. 2, Sch. 1

F25 26 Certain publications to be privileged.

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F25 Ss. 11-27 repealed (1.4.2015) by [Local Government Act \(Northern Ireland\) 2014 \(c. 8\)](#), s. 129, [Sch. 10](#) (with s. 124(4)); S.R. 2015/209, art. 2, Sch. 1

F25 27 Savings.

.....

F25 Ss. 11-27 repealed (1.4.2015) by [Local Government Act \(Northern Ireland\) 2014 \(c. 8\)](#), s. 129, [Sch. 10](#) (with s. 124(4)); S.R. 2015/209, art. 2, Sch. 1

PECUNIARY INTERESTS

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

^{F27}(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^{F28} 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^{F29} 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.

F27 1965 c.13 (NI), 1970 c.9 (NI), 1972 NI 14, 1981 NI 3

F28 1998 c. 32

F29 1984 NI 3

Modifications etc. (not altering text)

- C8** 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](#)
- C9** 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](#)
- C10** Ss. 28-33 applied (with modifications) (1.4.2012) by [Justice Act \(Northern Ireland\) 2011 \(c. 24\)](#), s. 111(3), [Sch. 2 para. 20](#) (with s. 106(4)); S.R. 2012/142, [art. 2\(a\)](#)
- C11** Ss. 28-33 applied (with modifications) (1.4.2012) by [Justice Act \(Northern Ireland\) 2011 \(c. 24\)](#), s. 111(3), [Sch. 1 para. 20](#) (with s. 106(4)); S.R. 2012/142, [art. 2\(a\)](#)
- C12** 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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C13 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.

^{F30}(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.

F30 1965 c.13 (NI), 1970 c.9 (NI), 1972 NI 14, 1981 NI 3

Modifications etc. (not altering text)

- C10** Ss. 28-33 applied (with modifications) (1.4.2012) by [Justice Act \(Northern Ireland\) 2011 \(c. 24\)](#), s. 111(3), [Sch. 2 para. 20](#) (with s. 106(4)); S.R. 2012/142, [art. 2\(a\)](#)
- C11** Ss. 28-33 applied (with modifications) (1.4.2012) by [Justice Act \(Northern Ireland\) 2011 \(c. 24\)](#), s. 111(3), [Sch. 1 para. 20](#) (with s. 106(4)); S.R. 2012/142, [art. 2\(a\)](#)
- C14** 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](#)
- C15** 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](#)

30 Relatives of councillors.

^{F31}(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^{F32} 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^{F33} or civil partners] or if the officer or candidate, or the husband or wife^{F33} 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^{F33} or civil partner] of the councillor.

F31 1965 c.13 (NI), 1970 c.9 (NI), 1972 NI 14, 1981 NI 3

F32 1984 NI 3

F33 2004 c.33

Modifications etc. (not altering text)

C10 Ss. 28-33 applied (with modifications) (1.4.2012) by [Justice Act \(Northern Ireland\) 2011 \(c. 24\)](#), s. 111(3), [Sch. 2 para. 20](#) (with s. 106(4)); S.R. 2012/142, art. 2(a)

C11 Ss. 28-33 applied (with modifications) (1.4.2012) by [Justice Act \(Northern Ireland\) 2011 \(c. 24\)](#), s. 111(3), [Sch. 1 para. 20](#) (with s. 106(4)); S.R. 2012/142, art. 2(a)

C16 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](#)

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C17 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](#)

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

- ^{F34}(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.

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

Modifications etc. (not altering text)

- C10** Ss. 28-33 applied (with modifications) (1.4.2012) by [Justice Act \(Northern Ireland\) 2011 \(c. 24\)](#), s. 111(3), [Sch. 2 para. 20](#) (with s. 106(4)); S.R. 2012/142, art. 2(a)
- C11** Ss. 28-33 applied (with modifications) (1.4.2012) by [Justice Act \(Northern Ireland\) 2011 \(c. 24\)](#), s. 111(3), [Sch. 1 para. 20](#) (with s. 106(4)); S.R. 2012/142, art. 2(a)
- C18** 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\(a\)\(c\)](#)
- C19** 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](#)
- C20** 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](#)

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

^{F35}(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^{F36} 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.

- F35** 1965 c.13 (NI), 1970 c.9 (NI), 1972 NI 14, 1981 NI 3
F36 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)

- C10** Ss. 28-33 applied (with modifications) (1.4.2012) by Justice Act (Northern Ireland) 2011 (c. 24), s. 111(3), **Sch. 2 para. 20** (with s. 106(4)); S.R. 2012/142, art. 2(a)
C11 Ss. 28-33 applied (with modifications) (1.4.2012) by Justice Act (Northern Ireland) 2011 (c. 24), s. 111(3), **Sch. 1 para. 20** (with s. 106(4)); S.R. 2012/142, art. 2(a)
C21 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**
C22 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.

- ^{F37}(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.

- F37** 1965 c.13 (NI), 1970 c.9 (NI), 1972 NI 14, 1981 NI 3

Modifications etc. (not altering text)

- C10** Ss. 28-33 applied (with modifications) (1.4.2012) by Justice Act (Northern Ireland) 2011 (c. 24), s. 111(3), **Sch. 2 para. 20** (with s. 106(4)); S.R. 2012/142, art. 2(a)
C11 Ss. 28-33 applied (with modifications) (1.4.2012) by Justice Act (Northern Ireland) 2011 (c. 24), s. 111(3), **Sch. 1 para. 20** (with s. 106(4)); S.R. 2012/142, art. 2(a)
C23 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**
C24 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**

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

F38 34 Re-election.

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F38 Ss. 34-35 repealed (1.4.2015) by [Local Government Act \(Northern Ireland\) 2014 \(c. 8\)](#), s. 129, [Sch. 10](#) (with s. 124(4)); S.R. 2015/209, art. 2, Sch. 1

F38 35 Validity of acts done by unqualified person.

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F38 Ss. 34-35 repealed (1.4.2015) by [Local Government Act \(Northern Ireland\) 2014 \(c. 8\)](#), s. 129, [Sch. 10](#) (with s. 124(4)); S.R. 2015/209, art. 2, Sch. 1

36 Payments to councillors.

F39

F39 S. 36 repealed (1.4.2012) by [Local Government Finance Act \(Northern Ireland\) 2011 \(c. 10\)](#), ss. 46, 47(2), [Sch. 2](#); S.R. 2011/306, [art. 2\(3\)](#)

37 Expenses of official and courtesy visits, etc.

F40

F40 S. 37 repealed (1.4.2012) by [Local Government Finance Act \(Northern Ireland\) 2011 \(c. 10\)](#), ss. 46, 47(2), [Sch. 2](#); S.R. 2011/306, [art. 2\(3\)](#)

38 Expenses incurred in attending conferences and meetings.

F41

F41 S. 38 repealed (1.4.2012) by [Local Government Finance Act \(Northern Ireland\) 2011 \(c. 10\)](#), ss. 46, 47(2), [Sch. 2](#); S.R. 2011/306, [art. 2\(3\)](#)

F42 39 Insurance against accidents to councillors.

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F42 S. 39 repealed (1.4.2015) by [Local Government Act \(Northern Ireland\) 2014 \(c. 8\)](#), s. 129, [Sch. 10](#) (with s. 124(4)); S.R. 2015/209, art. 2, Sch. 1

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