

Local Government Act (Northern Ireland) 1972

1972 CHAPTER 9

PART III

OFFICERS

40 The Staff Commission.

- (1) There shall be established a body to be known as the Local Government Staff Commission for Northern Ireland (in this Act referred to as “the Staff Commission”) for the purpose of exercising general oversight of matters connected with the recruitment, training and terms and conditions of employment of officers of councils [^{F1} and of the Northern Ireland Housing Executive (in this Act referred to as “the Executive”)] and of making recommendations to councils [^{F1} and to the Executive] on such matters.
- (2) The Staff Commission shall be a body corporate with perpetual succession, and section 19 of the Interpretation Act (Northern Ireland) 1954 shall apply to it.
- (3) The Staff Commission shall consist of—
 - (a) a chairman, and
 - (b) not more than [^{F2} fourteen] or less than six other members,
appointed by the Minister after consultation with—
 - (i) such [^{F2} councils and] associations representative of councils or their staffs as appear to the Minister to be concerned, and [^{F1} the Executive and such associations representative of the staff of the Executive as appear to the Department to be concerned, and]
 - (ii) any other association or any public body with whom consultation appears to the Minister to be desirable.
- (4) Without prejudice to the generality of subsection (1), the functions of the Staff Commission shall include—

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- (a) establishing, in such manner as the Staff Commission thinks fit, bodies (to be known as “advisory appointment panels”) for the purpose of giving advice to councils on the suitability of applicants for appointment to the office of clerk and to other offices for which qualifications are^[F3] determined] under section 41 (including the making of a selection of persons who may be treated as eligible for such appointments);
 - ^{F1}(aa) establishing, in such manner as the Staff Commission thinks fit, bodies (to be known as “advisory appointment panels”) for the purpose of giving advice to the Executive on the suitability of applicants for appointment to such offices under the Executive as the Department may determine (including the making of a selection of persons who may be treated as eligible for such appointments);]
 - (b) establishing a code of procedure for securing fair and equal consideration of applications to councils ^[F1] and to the Executive] by persons seeking to be employed by them as officers, and fair and equal treatment of persons who are so employed;
 - ^[F2](bb) monitoring the fair employment practices of councils and their compliance with statutory requirements in relation to fair employment;]
 - (c) assessing the probable future requirements of councils ^[F1] and of the Executive] for the recruitment of officers and securing publicity for the opportunities that are available to persons who may seek employment as such officers;
 - ^[F2](cc) establishing and issuing a code of recommended practice as regards the conduct of officers of councils;]
 - (d) promoting co-operation between councils, ^[F1] the Executive,] public bodies, government departments and educational institutions in matters connected with the recruitment, training and terms and conditions of employment of officers, and promoting the temporary transfer of officers (with their consent) in pursuance of arrangements made between councils, ^[F1] between councils and the Executive,] or between councils ^[F1] or the Executive], and any such bodies, departments or institutions;
 - (e) promoting or assisting the development of, or providing, facilities for the training of officers;
 - (f) promoting or assisting the establishment of, or establishing, procedures for the negotiation between councils ^[F1] the Executive] and officers of councils, ^[F1] or of the Executive] or associations representing ^[F4] any] of them, of standard rates of remuneration, or other terms and conditions of employment, for officers of councils, ^[F1] or of the Executive] and recommending the adoption by councils ^[F1] and the Executive] of rates, terms and conditions so negotiated.
- (5) Where the Staff Commission makes a recommendation to a council ^[F1] or, as the case may be, to the Executive] and the council ^[F1] or the Executive] does not comply with the recommendation within such reasonable period as the Staff Commission requires, the Ministry, after consulting the council ^[F1] or the Executive] and considering any representations made by it, may give to the council ^[F1] or to the Executive] any directions that the Ministry considers necessary or expedient for the implementation of the recommendation, and the council ^[F1] or the Executive] shall comply with any such direction within a period of one month or such longer period as the Ministry may allow.
- (6) A council ^[F1] and the Executive] shall—

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- (a) make such reports and returns with respect to its officers and their terms and conditions of employment;
 - (b) furnish such estimates of its probable future requirements for the recruitment of officers; and
 - (c) give such information with respect to matters connected with the employment of any officer or officers;
- to the Staff Commission, within such reasonable period, as the Staff Commission requires.
- (7) The provisions of Schedule 3 shall have effect with respect to the Staff Commission.
- (8) The Ministry may, by order made subject to affirmative resolution, make provision for modifying the functions of the Staff Commission, and such an order may modify or repeal any provision of this section or Schedule 3.
- [^{F5}(9) The Department may by order make provision for, and in connection with, the dissolution of the Staff Commission and such an order may—
- (a) provide for the transfer of the functions, assets and liabilities of the Staff Commission to any other body or person; and
 - (b) contain such incidental, consequential, transitional or supplementary provisions (including the modification or repeal of any statutory provision (including a provision of this Act)) as appear to the Department to be necessary or expedient.
- (10) An order must not be made under subsection (9) unless a draft of the order has been laid before, and approved by resolution of, the Assembly.]

F1	1981 NI 3
F2	1992 NI 6
F3	1995 NI 5
F4	1981 NI 3
F5	S. 40(9)(10) added (2.6.2014) by Local Government Act (Northern Ireland) 2014 (c. 8) , ss. 120, 129 (with s. 124(4)); S.R. 2014/153, art. 2, Sch. 1

Modifications etc. (not altering text)

C1	S. 40 applied (with mods) (2.7.2013) by The Local Government (Statutory Transition Committees) Regulations (Northern Ireland) 2013 (S.R. 2013/179) , regs. 1(1), 22, Sch. 2
C2	Ss. 40 41 applied (2.7.2013) by The Local Government (Statutory Transition Committees) Regulations (Northern Ireland) 2013 (S.R. 2013/179) , regs. 1(1), 18(4)

41 Appointment and qualification of officers.

- (1) Every council shall appoint a clerk of the council and shall also appoint such other officers as the council thinks necessary for the efficient discharge of the functions of the council.
- (2) A council may appoint a deputy of any officer for the purpose of acting in the place of the officer whenever the office is vacant or the officer is for any reason unable to act.
- [^{F6}(3) A person shall not be appointed to—
- (a) the office of clerk of a council; or
 - (b) such other office under a council as the Department may determine,

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

[^{F7}(3A) Without prejudice to any code of procedure established by the Staff Commission, a council shall not appoint any officer unless the vacancy in the office is advertised in such manner as^{F6} the Department may determine].]

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

Para.(a) rep. by 1985 NI 15

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

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

- (a) from among persons selected by an advisory appointment panel as eligible for the appointment; or
 (b) in accordance with directions given by the Ministry for implementing any recommendation made to the council by the Staff Commission^{F8} . . .

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

Subs.(6) rep. by 1995 NI 5

- (7) A council shall not, without the approval of the Ministry, remove from office or suspend, or withhold the remuneration of, any officer appointed by the Ministry under subsection (5),^{F6}

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

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

[^{F7}(aa) may make provision with respect to the co-ordination of the provision of the service provided by the officers of that class so employed within the districts of the council by which the officers are employed and the other council or councils]

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

[^{F7}(bb) may provide that the other council or councils shall not appoint officers of that class; and]

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

^{F7}

[^{F7}(8A) If the Department is satisfied that it is expedient that officers of any class should not be employed by one of the councils on behalf of both or all of them, the Department may make an order—

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- (a) transferring officers of that class from the council by which they are employed to such other council or councils as is specified in or determined under the order;
- (b) making provision for the protection of the interests of every officer so transferred;
- (c) providing for the expenses incurred in connection with the transfer of the employment of the officers to be defrayed by the councils in such proportion as they may agree upon or, in case of disagreement, as may be determined by the Department; and
- (d) making such incidental and supplemental provision as the Department thinks fit.

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

- (a) advising the council by which the officers are employed and the other council or councils on the establishment of the service provided by the officers of that class, including the number of officers to be employed and the qualifications of such officers;
- (b) making provision for training of such officers;
- (c) issuing advisory circulars and guidelines with respect to statutory provisions or standards of inspection or advising on such circulars and guidelines issued by the Department or district councils;
- (d) recording and reporting statistical data and on the enforcement of statutory provisions;
- (e) reporting annually to the Department and to the council by which the officers are employed and the other council or councils;
- (f) for the purpose of reaching agreement as mentioned in subsection (8)(*b*), making recommendations with respect to the apportionment of the expenses of the council by which the officers are employed in connection with the service provided by officers of that class; and
- (g) such other functions or activities as the Department may provide in the order under subsection (8).]

Subs.(9) rep. by 1985 NI 15

F6 [1995 NI 5](#)
F7 [1992 NI 6](#)
F8 [1985 NI 15](#)

Modifications etc. (not altering text)

- C2** Ss. 40 41 applied (2.7.2013) by [The Local Government \(Statutory Transition Committees\) Regulations \(Northern Ireland\) 2013 \(S.R. 2013/179\)](#), regs. 1(1), **18(4)**
- C3** S. 41 applied (with modifications) (2.7.2013) by [The Local Government \(Statutory Transition Committees\) Regulations \(Northern Ireland\) 2013 \(S.R. 2013/179\)](#), regs. 1(1), 22, **Sch. 2**

[41A^{F9} Appointment of Officers by the Executive.

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

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- (2) Where the Executive refuses or fails to make an appointment—
 - (a) from among persons selected by an advisory appointment panel as eligible for the appointment; or
 - (b) in accordance with directions given by the Department for implementing any recommendation made to the Executive by the Staff Commission;
 the Department, after consulting the Executive and considering any representations made by it, may make the appointment on behalf of the Executive and may, for that purpose, annul any other appointment that has been made by the Executive.
- (3) The Executive shall not, without the approval of the Department, remove from office or suspend, or withhold the remuneration of, any officer appointed by the Department under subsection (2).]

F9 1981 NI 3

[^{F10}41B Loans to officers for purchase of motor cars or motor cycles.

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

F10 1985 NI 15

42 Councillors not to be appointed officers.

- ^{F11}(1) Subject to subsection (2), a person shall, so long as he is and for twelve months after he has ceased to be, a councillor, be disqualified for being appointed by the council to any paid office [^{F12}which is prescribed under section 4(1)(a)] .
- ^{F13}(2)
- (3) In this section—
 - “council” includes a committee or sub-committee of a council;
 - “councillor” includes a member of such a committee or sub-committee, whether he is a member of the council or not.

F11 1965 c.13 (NI), 1970 c.9 (NI), 1981 NI 3

F12 Words in s. 42 inserted (1.2.2015) by Local Government Act (Northern Ireland) 2014 (c. 8), s. 129, Sch. 9 para. 2(a) (with s. 124(4)); S.R. 2015/28, art. 2(c)

F13 S. 42(2) repealed (1.2.2015) by Local Government Act (Northern Ireland) 2014 (c. 8), s. 129, Sch. 9 para. 2(b), Sch. 10 (with s. 124(4)); S.R. 2015/28, art. 2(c)

Modifications etc. (not altering text)

C4 S. 42 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)

C5 S. 42 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)

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C6 S. 42 applied (with modifications) (2.7.2013) by [The Local Government \(Statutory Transition Committees\) Regulations \(Northern Ireland\) 2013 \(S.R. 2013/179\)](#), regs. 1(1), 22, **Sch. 2**

S.43 rep. by 1973 NI 10

44 Retirement of officers.

F14

F14 S. 44 repealed (1.10.2006) by [Employment Equality \(Age\) Regulations \(Northern Ireland\) 2006 \(S.R. 2006/261\)](#), reg. 53(2), **Sch. 8(1)** (with reg. 50)

45 Insurance against default of officers.

- (1) A council—
- (a) shall in the case of an officer employed by it who by reason of his office or employment is likely to be entrusted with the custody or control of money; and
 - (b) may in the case of—
 - (i) any other officer employed by it, or
 - (ii) any person not employed by it who is likely to be entrusted with the custody or control of money or property belonging to the council;
- insure against risks of loss to the council arising from default in the faithful execution of his office or default in his duly accounting for all such money or property entrusted to him.
- (2) The instruments evidencing every insurance under subsection (1)(a) shall be produced to the auditor at the audit of the accounts of the council.

Modifications etc. (not altering text)

C7 S. 45 applied (with mods) (2.7.2013) by [The Local Government \(Statutory Transition Committees\) Regulations \(Northern Ireland\) 2013 \(S.R. 2013/179\)](#), regs. 1(1), 22, **Sch. 2**

46 Duty of officers to disclose pecuniary interest.

- ^{F15}(1) If it comes to the knowledge of an officer of a council that a contract in which he has any pecuniary interest, direct or indirect (not being a contract to which he is himself, openly and in his own name, a party), has been, or is proposed to be entered into by or on behalf of the council he shall as soon as practicable disclose to the council in writing the nature of his interest in that contract.
- (2) All disclosures made under subsection (1) (including disclosures made by the clerk himself) shall be brought by the clerk of the council to the notice of the council at the meeting of the council next thereafter occurring and—
- (a) it shall be the duty of the council to record in its minutes particulars of the disclosure; and
 - (b) if the person making the disclosure is present at any meeting of the council at which the contract in respect of which the disclosure was made is under consideration he shall withdraw from that meeting while the contract is being

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considered and his withdrawal shall be duly recorded in the minutes of the proceedings of that meeting.

- (3) For the purposes of this section subsections (2) and (4) of section 28 shall (without prejudice to any provision of those subsections) apply in relation to the officers of a council as they apply in relation to councillors.
- (4) Subject to subsection (5) and without prejudice to section 31 as applied by subsection (9), any person who acts in contravention of subsection (1) shall be guilty of an offence and shall be liable—
- (a) on conviction on indictment, to imprisonment for a term not exceeding one year or to a fine or to both; or
 - (b) on summary conviction to a fine not exceeding^{F16} level 3 on the standard scale].
- (5) It shall be a defence for the person charged with an offence under subsection (4) to prove that at the time of the offence—
- (a) he did not know and had no reason to believe that the contract or proposed contract in which he had a pecuniary interest was being considered at the meeting; or
 - (b) that he believed, in good faith and upon reasonable grounds, that he had no pecuniary interest which he would be required to disclose under subsection (1).
- (6) A prosecution for an offence under this section shall not be instituted except by or with the consent of the Attorney-General, and the bringing of, or the failure to bring, such a prosecution shall not affect any proceedings instituted by the Attorney-General under section 31, as applied by subsection (9), with respect to any transaction to which that section applies.
- (7) Notwithstanding any other transferred provision, a summary prosecution for an offence under subsection (4) may be commenced at any time within the period of one year from the date on which evidence, sufficient in the opinion of the Attorney-General to justify that prosecution, comes to the knowledge of the Attorney-General.
- (8) For the purposes of subsection (7), a certificate purporting to be signed by the Attorney-General as to the date on which the evidence referred to in that subsection came to his knowledge shall be evidence of that date.
- (9) Sections 31, 32 and (so far as is applicable for the purposes of those sections) 33 shall apply with respect to officers of a council as they apply with respect to councillors and as if any reference in those sections to a councillor (except the references in subsection (6) of section 31 and, in section 32, the first and third references in subsection (7), and the references in subsections (8) and (9)) included a reference to an officer of the council.

F15 1965 c.13 (NI), 1970 c.9 (NI), 1981 NI 3

F16 1984 NI 3

Modifications etc. (not altering text)

C8 S. 46 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)

C9 S. 46 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)

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47 Prohibition of acceptance of unauthorised fee or reward.

- ^{F17}(1) An officer of a council shall not, under colour of his office or employment, exact or accept (whether directly or indirectly for himself or for or through another) any fee or reward whatsoever other than his proper remuneration.
- (2) If any person acts in contravention of this section he shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding^{F18} level 3 on the standard scale].
- (3) In this section “council” includes a committee or sub-committee of a council.

F17 1965 c.13 (NI), 1970 c.9 (NI), 1981 NI 3

F18 1984 NI 3

Modifications etc. (not altering text)

C10 S. 47 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 S. 47 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)

^{F19}**47A Delegation of functions to officers.**

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F19 S. 47A 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

48 Protection for officer acting in execution of duty.

^{F20}

F20 S. 48 repealed (1.4.2006) by [Local Government \(Northern Ireland\) Order 2005 \(S.I. 2005/1968 \(N.I. 18\)\)](#), arts. 1(2), 28(8), Sch. 1; S.R. 2006/151, [art. 2](#) (with art. 4)

49 Officers of joint committee.

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

Changes to legislation:

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