



# Local Government Act (Northern Ireland) 1972

## 1972 CHAPTER 9

### PART II

#### MEMBERS, MEETINGS AND PROCEDURE

##### PECUNIARY INTERESTS

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

- <sup>F1</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—

**Changes to legislation:** Local Government Act (Northern Ireland) 1972, Section 31 is up to date with all changes known to be in force on or before 07 April 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

- (a) order that all gains of that councillor or of any other person which are in any way (directly or indirectly) attributable to such conduct shall be held upon trust for, and the amount or value thereof repaid to, that council;
  - (b) order that any relevant transaction be reopened and that the rights of any parties thereto or persons affected thereby be altered with a view to placing them as nearly as may be in the position they would, in the opinion of the Court, have been in if no councillor had been guilty of reprehensible conduct in or in relation to the affairs of that council;
  - (c) order that any relevant transaction shall be null and void or shall be rescinded either in whole or in part;
  - (d) order the payment (whether to that council or otherwise) by that councillor or by any other person directly or indirectly deriving gain from and having knowledge of, the reprehensible conduct of that councillor, of such sums by way of rectification, adjustment, compensation, restitution or restoration of unjust gain as the Court thinks just;
  - (e) order the payment—
    - (i) by that councillor; or
    - (ii) by any other person such as is referred to in paragraph ( d); or
    - (iii) by that council out of any amount received by it pursuant to any order made under this section;
 of sums by way of compensation for any loss or damage suffered by any innocent person as a result of the reprehensible conduct of the councillor; and
  - (f) make such further or other orders (including orders for costs or for the payment of the remuneration of a referee or inspector appointed under section 32) as the Court thinks proper.
- (4) The High Court shall not, in proceedings under this section, make an order under subsection (3)( a), ( d), ( e) or ( f) for the payment of any sum or the handing over of any property by any person not a party to those proceedings unless and until the Court has given to such person an opportunity of being heard (whether in person or by counsel) and has taken into consideration any representation made to it by or on behalf of such person.
- (5) In this section—
- “gain” includes any form of enrichment, benefit or advantage whatsoever which may have accrued to or been acquired by or which may accrue to or be acquired by a councillor or any other person whatsoever;
- “relevant transaction” includes any contract, grant, subsidy, licence, right, permission, use, authority, privilege, benefit, certificate, consent, approval, decision or determination made, granted, paid, issued or given or refused by or on behalf of any council or any person acting on behalf of any council.
- (6) A reference in this section to a person being a councillor shall include a reference to his sitting or voting or otherwise acting as a councillor.

**F1** 1965 c.13 (NI), 1970 c.9 (NI), 1972 NI 14, 1981 NI 3

**Modifications etc. (not altering text)**

**C1** 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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- C2** 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**
- C3** 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**
- C4** 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)
- C5** 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)

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**Changes and effects yet to be applied to the whole Act associated Parts and Chapters:**

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 4(1)(ea) inserted by [2022 c. 37 Sch. 5 para. 3](#)
- s. 10(1) s. 10 renumbered as s. 10(1) by [2022 c. 37 Sch. 10 para. 3\(3\)\(a\)](#)
- s. 10(1)(a) words inserted by [2022 c. 37 Sch. 10 para. 3\(3\)\(b\)](#)
- s. 10(2) inserted by [2022 c. 37 Sch. 10 para. 3\(3\)\(c\)](#)
- Sch. 8 para. 1 repealed by [2010 c. 23 Sch. 2](#) (Amendment could not be applied - affected provision (Sch. 8) not available on [legislation.gov.uk](#))
- Sch. 8 para. 3 repealed by [2010 c. 23 Sch. 2](#) (Amendment could not be applied - affected provision (Sch. 8) not available on [legislation.gov.uk](#))