



# Local Government Act (Northern Ireland) 1972

## 1972 CHAPTER 9

### PART III

#### OFFICERS

#### **46 Duty of officers to disclose pecuniary interest.**

- <sup>F1</sup>(1) If it comes to the knowledge of an officer of a council that a contract in which he has any pecuniary interest, direct or indirect (not being a contract to which he is himself, openly and in his own name, a party), has been, or is proposed to be entered into by or on behalf of the council he shall as soon as practicable disclose to the council in writing the nature of his interest in that contract.
- (2) All disclosures made under subsection (1) (including disclosures made by the clerk himself) shall be brought by the clerk of the council to the notice of the council at the meeting of the council next thereafter occurring and—
- (a) it shall be the duty of the council to record in its minutes particulars of the disclosure; and
  - (b) if the person making the disclosure is present at any meeting of the council at which the contract in respect of which the disclosure was made is under consideration he shall withdraw from that meeting while the contract is being considered and his withdrawal shall be duly recorded in the minutes of the proceedings of that meeting.
- (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—

**Changes to legislation:** Local Government Act (Northern Ireland) 1972, Section 46 is up to date with all changes known to be in force on or before 01 March 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) 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>F2</sup> 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.

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

**F2** 1984 NI 3

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

- C1** 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)
- C2** 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)

**Changes to legislation:**

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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](#))