



# Local Government and Elections (Wales) Act 2021

2021 asc 1

## PART 1

### ELECTIONS

#### *Disqualification of members of local authorities*

#### **20 Disqualification for election and being a member of a local authority**

After section 80 of the 1972 Act insert—

##### **“80A Disqualification for election or being a member of a local authority in Wales**

- (1) A person is disqualified for being elected or being a member of a local authority in Wales if—
  - (a) the person is the subject of—
    - (i) a bankruptcy restrictions order or an interim bankruptcy restrictions order under Schedule 4A to the Insolvency Act 1986, Schedule 2A to the Insolvency (Northern Ireland) Order 1989, or Part 13 of the Bankruptcy (Scotland) Act 2016;
    - (ii) a debt relief restrictions order or interim debt relief restrictions order under Schedule 4ZB to the Insolvency Act 1986 or Schedule 2ZB to the Insolvency (Northern Ireland) Order 1989;
  - (b) the person is disqualified for being elected or for being a member of the authority under Part 3 of the Representation of the People Act 1983 (corrupt or illegal practices);
  - (c) the person is subject to the notification requirements of, or an order under, Part 2 of the Sexual Offences Act 2003;

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*Status: Point in time view as at 17/11/2021.*

*Changes to legislation: There are currently no known outstanding effects for the Local Government and Elections (Wales) Act 2021, Cross Heading: Disqualification of members of local authorities. (See end of Document for details)*

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- (d) the person has a relevant criminal conviction.
- (2) A person has a relevant criminal conviction if, during the period of five years ending with the day of the local authority election, or since the person's election, the person has been convicted in the United Kingdom, the Channel Islands, or the Isle of Man of an offence for which the person has been sentenced to a term of imprisonment (whether suspended or not) of 3 months or more without the option of a fine.
- (3) A person is not disqualified under subsection (1)(c) at any time before the end of the ordinary period allowed for making—
- (a) an appeal or application in respect of the conviction or finding to which the notification requirements relate;
  - (b) an appeal in respect of the order.
- (4) A person is not disqualified under subsection (1)(d) at any time before the end of the ordinary period allowed for making an appeal or application in respect of the conviction.
- (5) A person who makes an appeal or application of the kind mentioned in subsection (3) or (4) is not disqualified under subsection (1)(c) or (d) at any time before the end of the day on which the appeal or application is finally disposed of, or is abandoned, or fails by reason of non-prosecution.
- (6) A person who would be disqualified but for subsection (3), (4) or (5) must not act in the office of member of a local authority in Wales.

### **80B Disqualification for being a member of a local authority in Wales and holding local office or employment**

- (1) A person who holds a relevant paid office or employment (see section 80C) is disqualified for being a member of a local authority in Wales, (but not for being elected as such a member).
- (2) A person is not disqualified under subsection (1) at any time before the person makes a declaration of acceptance of office in accordance with section 83.
- (3) Subsections (4), (5) and (6) apply where a person is elected as a member of a local authority in Wales and resigns from the relevant paid office or employment for the purpose of taking office as a member.
- (4) The resignation terminates the holding of the paid office or employment with immediate effect.
- (5) Any notice requirement in the terms and conditions under which the paid office or employment is held has no effect.
- (6) Section 86(2) of the Employment Rights Act 1996 (requirement on employee to give minimum of one week's notice) does not apply.
- (7) This section does not apply to a person who is disqualified for being elected or being a member of a local authority under section 1 of the Local Government and Housing Act 1989 (disqualification by virtue of holding politically restricted post).

*Status: Point in time view as at 17/11/2021.*

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### **80C Paid office or employment to which disqualification applies**

- (1) For the purposes of section 80B “a relevant paid office or employment” is a paid office or employment appointment or election to which is or may be made or confirmed by—
  - (a) the local authority to which the person was elected a member;
  - (b) a committee or sub-committee of the local authority;
  - (c) a joint committee or National Park authority on which the local authority is represented; or
  - (d) a holder of a paid office or employment of the kind described in paragraphs (a), (b) or (c).
- (2) But a relevant paid office or employment in subsection (1) does not include the office of—
  - (a) chairman, vice-chairman, presiding member or deputy presiding member, or
  - (b) in the case of a local authority operating executive arrangements which involve a leader and cabinet executive, the office of executive leader, member of the executive or assistant to the executive.
- (3) Subsection (1) has effect in relation to a teacher in a school maintained by a local authority whether or not the appointment to the post was made in accordance with that subsection.
- (4) Where the holder of a relevant paid office in a local authority in Wales (“local authority A”) is employed under the direction of—
  - (a) a committee or sub-committee of local authority A any member of which is appointed on the nomination of another local authority in Wales (“local authority B”), or
  - (b) a joint board, a National Park authority, or joint committee on which local authority A is represented and any member of which is appointed on the nomination of local authority B,section 80B applies in respect of the person's membership of local authority B.
- (5) For the purposes of this section, a local authority is represented on a National Park authority if it is entitled to appoint a member of the local authority as a member of the National Park authority.”

#### **Commencement Information**

**II** S. 20 in force at 17.11.2021 by S.I. 2021/1249, art. 2(a) (with art. 4)

## **21 Disqualification of member of a local authority in Wales for appointment to paid office**

After section 116 of the 1972 Act insert—

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*Status: Point in time view as at 17/11/2021.*

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### **“116A Members of local authorities in Wales not to be appointed as officers**

A member of a local authority in Wales is disqualified for being appointed or elected by that authority to any paid office other than the office of chairman, vice-chairman, or in the case of a local authority operating executive arrangements which involve a leader and cabinet executive, the office of executive leader, member of the executive or assistant to the executive.”

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#### **Commencement Information**

**I2** S. 21 in force at 17.11.2021 by S.I. 2021/1249, art. 2(a) (with art. 4)

**Status:**

Point in time view as at 17/11/2021.

**Changes to legislation:**

There are currently no known outstanding effects for the Local Government and Elections (Wales) Act 2021, Cross Heading: Disqualification of members of local authorities.