



# 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 [<sup>F1</sup>eighteen] years and is a [<sup>F2</sup>qualifying Commonwealth citizen] or [<sup>F3</sup>a citizen of the Republic of Ireland][<sup>F4</sup>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 [<sup>F4</sup>“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 [<sup>F5</sup>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.
- [<sup>F6</sup>(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)(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)

#### 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 place of profit (not being that of chairman or sheriff) in the gift or disposal of that or any other council; or
  - [<sup>F7</sup>(b) is the subject of a bankruptcy restrictions order or interim order;]
  - [<sup>F8</sup>(c) he is disqualified for being elected or being a councillor under Article 19 or 20 of the Local Government (Northern Ireland) Order 2005;]
  - [<sup>F9</sup>(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<sup>F9</sup> . . . been guilty of any conduct which the High Court has by order declared was reprehensible within the meaning of section 31; or
  - [<sup>F9</sup>(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 declaration against terrorism as defined in section 7 of the Elected Authorities (Northern Ireland) Act 1989; or]

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- (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).
- [<sup>F10</sup>(f) he has received a severance payment (within the meaning of section 19 of the Local Government (Miscellaneous Provisions) Act (Northern Ireland) 2010).]

*Subs.(2) rep. by 1985 NI 15*

[<sup>F9</sup>(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.]

- F7** S. 4(1)(b) substituted (27.3.2006) by [Insolvency \(Northern Ireland\) Order 2005 \(S.I. 2005/1455 \(N.I. 10\)\)](#), arts. 1(3), 23(1); S.R. 2006/21, [art. 2](#) (subject to S.R. 2006/22, arts. 2-7)
- F8** 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)
- F9** 1989 c.3
- F10** 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)

## 5 Disqualifications to become inapplicable in certain cases.

<sup>F11</sup> .....

- F11** 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[<sup>F12</sup> an unlimited fine] or to imprisonment for a term not exceeding one year, or to both; or

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- (b) on summary conviction to a fine not exceeding<sup>[F12]</sup> 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.
- (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.

**F12** 1984 NI 3

## **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.

## **[<sup>F13</sup>7A Northern Ireland code of local government conduct.**

- (1) The Department, for the guidance of members of councils, may issue a code of recommended practice as regards the conduct of members of councils to be known as the Northern Ireland code of local government conduct.
- (2) The Department may revise or withdraw a code issued under this section.
- (3) The Department, before issuing, revising or withdrawing a code, shall consult such councils, such associations or bodies representative of councils and such other associations or public bodies as appear to the Department to be desirable.
- (4) A code shall not be issued or revised unless a draft of it has been laid before and approved by a resolution of the Assembly.
- (5) The form of declaration of acceptance of office under section 7 and Part I of Schedule 1 shall include an undertaking by the declarant to be guided by the Northern Ireland code of local government conduct in the performance of his functions.

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- (6) In this section “member”, in relation to a council, includes any person who, whether or not a member of the council, is a member of a committee or sub-committee of the council or of any joint committee of two or more councils.]

F13 1992 NI 6

## 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.

## 9 Vacation of office on account of non-attendance.

[<sup>F14</sup>(1) Subject to subsections (2) and (3), 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 36,

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.

F14 1995 NI 5

## 10 Declaration of vacancy in office in certain cases.

Where a councillor—

- (a) becomes disqualified for being a councillor[<sup>F15</sup>otherwise than under Article 19 or 20 of the Local Government (Northern Ireland) Order 2005 or by reason of] a conviction[<sup>F16</sup> 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 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

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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.

**F15** 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)

**F16** [1992 NI 6](#)

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