



# Local Government and Housing Act 1989

## 1989 CHAPTER 42

### PART I

#### LOCAL AUTHORITY MEMBERS, OFFICERS, STAFF AND COMMITTEES ETC.

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

- C1** Pt. 1 (ss. 1-21) applied (temp. from 4.5.1995 to 31.3.1996) by [S.I. 1995/1042, art. 4\(1\)](#)  
Pt. 1 (ss. 1-21): power conferred to make provisions about matters of the kind dealt with in this part (1.9.1997) by [1997 c. 50, s. 44\(1\)](#), [Sch. 4](#) para. (j)(i); [S.I. 1997/1930, art. 2\(1\)\(2\)\(m\)](#) (subject to [art. 2\(3\)](#))  
Pt. 1 (ss. 1-21): extended (E.W.) (26.10.2000 for E. and 28.7.2001 for W.) by [2000 c. 22, ss. 23, 108\(4\)](#), [Sch. 1 para. 3\(13\)](#); [S.I. 2000/2849, art. 2\(e\)](#)
- C2** Pt. 1 (ss. 1-21): extended (E.) (6.5.2002) by [The Local Authorities \(Elected Mayor and Mayor's Assistant\) \(England\) Regulations 2002 \(S.I. 2002/975\)](#), regs. 1(2), 3(6)

#### *Political restriction of officers and staff*

### **1 Disqualification and political restriction of certain officers and staff.**

- (1) A person shall be disqualified from becoming (whether by election or otherwise) or remaining a member of a local authority if he holds a politically restricted post under that local authority or any other local authority in Great Britain.
- (2) In the <sup>M1</sup>House of Commons Disqualification Act 1975, in Part III of Schedule 1 (other disqualifying offices) there shall be inserted at the appropriate place—
- “Person holding a politically restricted post, within the meaning of Part I of the Local Government and Housing Act 1989, under a local authority, within the meaning of that Part.”
- (3) In section 80 of the <sup>M2</sup>Local Government Act 1972 (disqualification for election and holding office as member of local authority)—

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- (a) in subsection (1)(a) (paid office holders and employees), the words “joint board, joint authority or” shall be omitted; and
  - (b) in subsection (6) (extension of meaning of “local authority”), after the word “includes” there shall be inserted “ a joint board and ”.
- (4) In section 31 of the <sup>M3</sup>Local Government (Scotland) Act 1973 (which makes corresponding provision for Scotland)—
- (a) in subsection (1)(a)(ii), the words “or joint board” shall be omitted; and
  - (b) after subsection (1) there shall be inserted the following subsection—
- “(1A) A person is disqualified for being a member of a joint board if he or a partner of his holds any paid office or employment (other than the office of chairman or vice-chairman of the board) or other place of profit in the gift or disposal of the board.”
- (5) The terms of appointment or conditions of employment of every person holding a politically restricted post under a local authority (including persons appointed to such posts before the coming into force of this section) shall be deemed to incorporate such requirements for restricting his political activities as may be prescribed for the purposes of this subsection by regulations made by the Secretary of State.
- (6) Regulations under subsection (5) above may contain such incidental provision and such supplemental, consequential and transitional provision in connection with their other provisions as the Secretary of State considers appropriate and, without prejudice to section 190(1) below, may contain such exceptions for persons appointed in pursuance of section 9 below as he thinks fit.
- (7) So far as it has effect in relation to disqualification for election, this section has effect with respect to any election occurring not less than two months after the coming into force of this section and, so far as it relates to becoming in any other way a member of a local authority, this section has effect with respect to any action which, apart from this section, would result in a person becoming a member of the authority not less than two months after the coming into force of this section.
- (8) If, immediately before the expiry of the period of two months referred to in subsection (7) above, a person who is a member of a local authority holds a politically restricted post under that or any other local authority, nothing in this section shall apply to him until the expiry of the period for which he was elected or for which he otherwise became a member of the authority.

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

- C3** S. 1 applied (S.) (temp.) (6.4.1995 to 1.4.1996) by [S.I. 1995/789](#), [art. 2](#), [Sch.](#) entry 11  
 S. 1 extended (E.W.) (19.9.1995) by [1995 c. 25](#), [ss. 63\(5\)](#), [125\(2\)](#), [Sch. 7 para. 7\(4\)](#) (with [ss. 7\(6\)](#), [115](#), [117](#), [Sch. 8 para. 7](#))  
 S. 1 extended (8.5.2000) by [1999 c. 29](#), [ss. 68](#), [70](#) (with [Sch. 12 para. 9\(1\)](#)); [S.I. 2000/801](#), [art. 2\(2\)\(b\)](#), [Sch. Pt. 2](#)
- C4** Ss. 1-3 modified (E.) (22.7.2004) by [The Chilterns Area of Outstanding Natural Beauty \(Establishment of Conservation Board\) Order 2004 \(S.I. 2004/1778\)](#), [arts. 1](#), [12\(4\)](#)
- C5** Ss. 1-3 modified (E.) (22.7.2004) by [The Cotswolds Area of Outstanding Natural Beauty \(Establishment of Conservation Board\) Order 2004 \(S.I. 2004/1777\)](#), [arts. 1](#), [12\(4\)](#)

#### Marginal Citations

- M1** [1975 c. 24](#).

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**M2** 1972 c. 70.

**M3** 1973 c. 65.

## 2 Politically restricted posts.

- (1) The following persons are to be regarded for the purposes of this Part as holding politically restricted posts under a local authority—
  - (a) the person designated under section 4 below as the head of the authority's paid service;
  - (b) the statutory chief officers;
  - (c) a non-statutory chief officer;
  - (d) a deputy chief officer;
  - (e) the monitoring officer designated under section 5 below;
  - (f) any person holding a post to which he was appointed in pursuance of section 9 below; and
  - (g) any person not falling within paragraphs (a) to (f) above whose post is for the time being specified by the authority in a list maintained in accordance with subsection (2) below and any directions under section 3 below or with section 100G(2) of the <sup>M4</sup>Local Government Act 1972 or section 50G(2) of the <sup>M5</sup>Local Government (Scotland) Act 1973 (list of officers to whom powers are delegated).
- (2) It shall be the duty of every local authority to prepare and maintain a list of such of the following posts under the authority, namely—
  - (a) the full time posts the annual rate of remuneration in respect of which is or exceeds £19,500 or such higher amount as may be specified in or determined under regulations made by the Secretary of State;
  - (b) the part time posts the annual rate of remuneration in respect of which would be or exceed that amount if they were full time posts in respect of which remuneration were paid at the same rate as for the part time post; and
  - (c) posts not falling within paragraph (a) or (b) above the duties of which appear to the authority to fall within subsection (3) below,as are not posts for the time being exempted under section 3 below, posts for the time being listed under section 100G(2) of the <sup>M6</sup>Local Government Act 1972 or section 50G(2) of the <sup>M7</sup>Local Government (Scotland) Act 1973 or posts of a description specified in regulations made by the Secretary of State for the purposes of this subsection.
- (3) The duties of a post under a local authority fall within this subsection if they consist in or involve one or both of the following, that is to say—
  - (a) giving advice on a regular basis to the authority themselves, to any committee or sub-committee of the authority or to any joint committee on which the authority are represented<sup>F1</sup> or, where the authority are operating executive arrangements, to the executive of the authority, to any committee of that executive, or to any member of that executive who is also a member of the authority];
  - (b) speaking on behalf of the authority on a regular basis to journalists or broadcasters.
- (4) It shall be the duty of every local authority to deposit the first list prepared under subsection (2) above with their proper officer before the expiry of the period of two

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- months beginning with the coming into force of this section; and it shall also be their duty, on subsequently making any modifications of that list, to deposit a revised list with that officer.
- (5) It shall be the duty of every local authority in performing their duties under this section to have regard to such general advice as may be given by virtue of subsection (1)(b) of section 3 below by a person appointed under that subsection.
- (6) In this section “the statutory chief officers” means—
- (a) the chief education officer [<sup>F2</sup>or director of education] appointed under [<sup>F3</sup>section 532 of the Education Act 1996][<sup>F2</sup>or section 78 of the <sup>M8</sup>Education (Scotland) Act 1980];
  - (b) the chief officer of a fire brigade maintained under the <sup>M9</sup>Fire Services Act 1947 and appointed under regulations made under section 18(1)(a) of that Act;
  - (c) the director of social services or [<sup>F4</sup>chief social work officer] appointed under section 6 of the <sup>M10</sup>Local Authority Social Services Act 1970 or section 3 of the <sup>M11</sup>Social Work (Scotland) Act 1968; and
  - (d) the officer having responsibility, for the purposes of section 151 of the Local Government Act 1972, section 73 of the <sup>M12</sup>Local Government Act 1985, section 112 of the <sup>M13</sup>Local Government Finance Act 1988 [<sup>F5</sup>, section 127(2) of the Greater London Authority Act 1999] or section 6 below or for the purposes of section 95 of the <sup>M14</sup>Local Government (Scotland) Act 1973, for the administration of the authority’s financial affairs.
- (7) In this section “non-statutory chief officer” means, subject to the following provisions of this section—
- (a) a person for whom the head of the authority’s paid service is directly responsible;
  - (b) a person who, as respects all or most of the duties of his post, is required to report directly or is directly accountable to the head of the authority’s paid service; and
  - (c) any person who, as respects all or most of the duties of his post, is required to report directly or is directly accountable to the local authority themselves or any committee or sub-committee of the authority.
- (8) In this section “deputy chief officer” means, subject to the following provisions of this section, a person who, as respects all or most of the duties of his post, is required to report directly or is directly accountable to one or more of the statutory or non-statutory chief officers.
- (9) A person whose duties are solely secretarial or clerical or are otherwise in the nature of support services shall not be regarded as a non-statutory chief officer or a deputy chief officer for the purposes of this Part.
- (10) Nothing in this section shall have the effect of requiring any person to be regarded as holding a politically restricted post by reason of his holding—
- (a) the post of head teacher or principal of a school, college or other educational institution or establishment which, in England and Wales, is maintained or assisted by a local education authority or, in Scotland, is under the management of or is assisted by an education authority; or
  - (b) any other post as a teacher or lecturer in any such school, college, institution or establishment,

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or of requiring any such post to be included in any list prepared and maintained under this section.

- (11) Regulations under this section may contain such incidental provision and such supplemental, consequential and transitional provision in connection with their other provisions as the Secretary of State considers appropriate.

#### Textual Amendments

- F1** Words in s. 2(3)(a) inserted (E.) (11.7.2001) and (W.) (1.4.2002) by S.I. 2001/2237, arts. 1(2), 22; S.I. 2002/808, arts. 1(2), **21**
- F2** Words in s. 2(6)(a) repealed (S.) (1.4.1996) by 1994 c. 39, s. 180(1)(2), Sch. 13 para. 161(1)(2)(a), **Sch. 14** (with s. 128(8)); S.I. 1996/323, art. 4(1)(c)(d), **Sch. 2**
- F3** Words in s. 2(6)(a) substituted (1.11.1996) by 1996 c. 56, ss. 582(1), 583(2), **Sch. 37 para. 95** (with s. 1(4), Sch. 39 paras. 30, 39)
- F4** Words in s. 2(6)(c) substituted (S.) (1.4.1996) by 1994 c. 39, s. 180(1), **Sch. 13 para. 161(1)(2)(b)** (with s. 128(8)); S.I. 1996/323, **art. 4(1)(c)**
- F5** Words in s. 2(6)(d) inserted (8.5.2000 for specified purposes otherwise 3.7.2000) by 1999 c. 29, s. **127(8)** (with Sch. 12 para. 9(1)); S.I. 1999/3434, **arts. 3, 4**

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

- C4** Ss. 1-3 modified (E.) (22.7.2004) by The Chilterns Area of Outstanding Natural Beauty (Establishment of Conservation Board) Order 2004 (S.I. 2004/1778), arts. 1, **12(4)**
- C5** Ss. 1-3 modified (E.) (22.7.2004) by The Cotswolds Area of Outstanding Natural Beauty (Establishment of Conservation Board) Order 2004 (S.I. 2004/1777), arts. 1, **12(4)**
- C6** S. 2 extended (E.W.) (19.9.1995) by 1995 c. 25, ss. 63(5), 125(2), **Sch. 7 para. 7(4)** (with ss. 7(6), 115, 117, Sch. 8 para. 7)

#### Marginal Citations

- M4** 1972 c. 70.  
**M5** 1973 c. 65.  
**M6** 1972 c. 70.  
**M7** 1973 c. 65.  
**M8** 1980 c. 44.  
**M9** 1947 c. 41.  
**M10** 1970 c. 42.  
**M11** 1968 c. 49.  
**M12** 1985 c. 51.  
**M13** 1988 c. 41.  
**M14** 1973 c. 65.

### 3 Grant and supervision of exemptions from political restriction.

- (1) It shall be the duty of the Secretary of State to appoint a person—
- (a) to carry out the functions in relation to political restriction which are conferred by subsections (2) to (7) below; and
  - (b) to give such general advice with respect to the determination of questions arising by virtue of section 2(3) above as that person considers appropriate after consulting such representatives of local government and such organisations appearing to him to represent employees in local government as he considers appropriate.

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- (2) A person appointed under subsection (1) above—
- (a) shall consider any application for exemption from political restriction which is made to him, in respect of any post under a local authority, by the holder for the time being of that post; and
  - (b) may, on the application of any person or otherwise, give directions to a local authority requiring it to include a post in the list maintained by the authority under section 2(2) above.
- (3) An application shall not be made by virtue of subsection (2)(a) above in respect of a post under a local authority except where—
- (a) the authority have specified or are proposing to specify the post in the list maintained by the authority under subsection (2) of section 2 above; and
  - (b) in the case of a post falling within paragraph (a) or (b) of that subsection, the authority have certified whether or not, in their opinion, the duties of the post fall within subsection (3) of that section;
- and it shall be the duty of a local authority to give a certificate for the purposes of paragraph (b) above in relation to any post if they are requested to do so by the holder of that post.
- (4) If, on an application made by virtue of subsection (2)(a) above in respect of any post under a local authority, the person to whom the application is made is satisfied that the duties of the post do not fall within section 2(3) above, that person shall direct—
- (a) that, for so long as the direction has effect in accordance with its terms, the post is not to be regarded as a politically restricted post; and
  - (b) that, accordingly, the post is not to be specified in the list maintained by that authority under section 2(2) above or, as the case may be, is to be removed from that list.
- (5) A person appointed under subsection (1) above shall not give a direction under subsection (2)(b) above in respect of any post under a local authority except where he is satisfied that the post—
- (a) is a post the duties of which fall within section 2(3) above; and
  - (b) is neither included in any list maintained by the authority in accordance with section 2(2) above, section 100G(2) of the <sup>M15</sup>Local Government Act 1972 or section 50G(2) of the <sup>M16</sup>Local Government (Scotland) Act 1973 nor of a description specified in any regulations under section 2(2) above.
- (6) It shall be the duty of a local authority—
- (a) to give a person appointed under subsection (1) above all such information as that person may reasonably require for the purpose of carrying out his functions under this section;
  - (b) to comply with any direction under this section with respect to the list maintained by the authority; and
  - (c) on being given a direction by virtue of subsection (2)(b) above, to notify the terms of the direction to the holder for the time being of the post to which the direction relates.
- (7) It shall be the duty of a person appointed under subsection (1) above, in carrying out his functions under this section, to give priority, according to the time available before the election, to any application made by virtue of subsection (2)(a) above by a person who certifies that it is made for the purpose of enabling him to be a candidate in a forthcoming election.

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- (8) The Secretary of State may—
- (a) appoint different persons under subsection (1) above for England and for Wales;
  - (b) provide for the appointment of such numbers of staff to assist any person appointed under that subsection, and to act on that person's behalf, as the Secretary of State may with the consent of the Treasury determine;
  - (c) pay to or in respect of a person appointed under that subsection and members of such a person's staff such remuneration and such other sums by way of, or towards, the payment of pensions, allowances and gratuities as the Secretary of State may so determine; and
  - (d) provide for a person appointed under that subsection and such a person's staff to hold office on such other terms as the Secretary of State may so determine.

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

- C4** Ss. 1-3 modified (E.) (22.7.2004) by [The Chilterns Area of Outstanding Natural Beauty \(Establishment of Conservation Board\) Order 2004 \(S.I. 2004/1778\)](#), arts. 1, **12(4)**
- C5** Ss. 1-3 modified (E.) (22.7.2004) by [The Cotswolds Area of Outstanding Natural Beauty \(Establishment of Conservation Board\) Order 2004 \(S.I. 2004/1777\)](#), arts. 1, **12(4)**
- C7** S. 3 applied (S.) (*temp.* 6.4.1995 to 31.3.1996) by [S.I. 1995/789](#), art. 2, **Sch. entry 11**  
S. 3 extended (E.W.) (19.9.1995) by [1995 c. 25](#), ss. 63(5), 125(2), **Sch. 7 para. 7(4)** (with ss. 7(6), 115, 117, **Sch. 8 para. 7**)  
S. 3 extended (8.5.2000) by [1999 c. 29](#), ss. 68, 70 (with **Sch. 12 para. 9(1)**); [S.I. 2000/801](#), art. 2(2)(b), **Sch. Pt. 2**

**Marginal Citations**

- M15** 1972 c. 70.  
**M16** 1973 c. 65.

*Duties of particular officers*

**4 Designation and reports of head of paid service.**

- (1) It shall be the duty of every relevant authority—
- (a) to designate one of their officers as the head of their paid service; and
  - (b) to provide that officer with such staff, accommodation and other resources as are, in his opinion, sufficient to allow his duties under this section to be performed.
- (2) It shall be the duty of the head of a relevant authority's paid service, where he considers it appropriate to do so in respect of any proposals of his with respect to any of the matters specified in subsection (3) below, to prepare a report to the authority setting out his proposals.
- (3) Those matters are—
- (a) the manner in which the discharge by the authority of their different functions is co-ordinated;
  - (b) the number and grades of staff required by the authority for the discharge of their functions;
  - (c) the organisation of the authority's staff; and

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- (d) the appointment and proper management of the authority’s staff.
- (4) It shall be the duty of the head of a relevant authority’s paid service, as soon as practicable after he has prepared a report under this section, to arrange for a copy of it to be sent to each member of the authority.
- (5) It shall be the duty of a relevant authority to consider any report under this section by the head of their paid service at a meeting held not more than three months after copies of the report are first sent to members of the authority; and nothing in section 101 of the <sup>M17</sup>Local Government Act 1972 or in section 56 of [<sup>F6</sup>, or Schedule 10 or 20 to,] the <sup>M18</sup>Local Government (Scotland) Act 1973 (delegation) shall apply to the duty imposed by virtue of this subsection.
- (6) In this section “relevant authority”—
- (a) in relation to England and Wales, means a local authority of any of the descriptions specified in paragraphs (a) to (e) of section 21(1) below; and
- (b) in relation to Scotland, [<sup>F7</sup>council constituted under section 2 of the Local Government etc. (Scotland) Act 1994].
- (7) This section shall come into force at the expiry of the period of two months beginning on the day this Act is passed.

#### Textual Amendments

- F6** Words in s. 4(5) repealed (S.) (1.4.1996) by 1994 c. 39, s. 180(1)(2), Sch. 13 para. 161(1)(3)(a), Sch. 14 (with s. 128(8)); S.I. 1996/323, art. 4(1)(c)(d), Sch. 2
- F7** Words in s. 4(6)(b) substituted (S.) (1.4.1996) by 1994 c. 39, s. 180(1), Sch. 13 para. 161(1)(3)(b) (with s. 128(8)); S.I. 1996/323, art. 4(1)(c)

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

- C8** S. 4 extended (E.W.) (19.9.1995) by 1995 c. 25, ss. 63(5), 125(2), Sch. 7 para. 13(7)(a) (with ss. 7(6), 115, 117, Sch. 8 para. 7)  
 S. 4 applied (with modifications) (8.5.2000) by 1999 c. 29, s. 72(1) (with Sch. 12 para. 9(1)); S.I. 2000/801, art. 2(2)(b), Sch. Pt. 2
- C9** S. 4 applied (E.) (22.7.2004) by The Cotswolds Area of Outstanding Natural Beauty (Establishment of Conservation Board) Order 2004 (S.I. 2004/1777), arts. 1, 17(7)
- C10** S. 4 applied (E.) (22.7.2004) by The Chilterns Area of Outstanding Natural Beauty (Establishment of Conservation Board) Order 2004 (S.I. 2004/1778), arts. 1, 17(7)(a)

#### Marginal Citations

- M17** 1972 c. 70.  
**M18** 1973 c. 65.

## 5 Designation and reports of monitoring officer.

- (1) It shall be the duty of every relevant authority—
- (a) to designate one of their officers (to be known as “the monitoring officer”) as the officer responsible for performing the duties imposed by this section [<sup>F8</sup>and, where relevant, section 5A below]; and
- (b) to provide that officer with such staff, accommodation and other resources as are, in his opinion, sufficient to allow those duties [<sup>F9</sup>and, where relevant, the duties under section 5A below] to be performed;



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and [<sup>F10</sup>subject to subsection (1A) below] the officer so designated may be the head of the authority's paid service [<sup>F11</sup>(or, in the case of a police authority established under [<sup>F12</sup>section 3 of the Police Act 1996][<sup>F13</sup>or the Metropolitan Police Authority], the clerk to the authority)] but shall not be their chief finance officer.

[<sup>F14</sup>(1A) The officer designated under subsection (1) above by a relevant authority to which this subsection applies may not be the head of that authority's paid service.]

[<sup>F14</sup>(1B) Subsection (1A) above applies to the following relevant authorities in England and Wales—

- (a) a county council,
- (b) a county borough council,
- (c) a district council,
- (d) a London borough council,
- (e) the Greater London Authority, and
- (f) the Common Council of the City of London in its capacity as a local authority, police authority or port health authority.]

(2) [<sup>F15</sup>Subject to subsection (2B),] it shall be the duty of a relevant authority's monitoring officer, if it at any time appears to him that any proposal, decision or omission by the authority, by any committee, [<sup>F16</sup>or sub-committee of the authority, by any person holding any office or employment under the authority] or by any joint committee on which the authority are represented constitutes, has given rise to or is likely to or would give rise to—

- (a) a contravention by the authority, by any committee, [<sup>F16</sup>or sub-committee of the authority, by any person holding any office or employment under the authority] or by any such joint committee of any enactment or rule of law [<sup>F17</sup>or of any code of practice made or approved by or under any enactment]; or
- (b) any such maladministration or injustice as is mentioned in Part III of the <sup>M19</sup>Local Government Act 1974 (Local Commissioners) or Part II of the <sup>M20</sup>Local Government (Scotland) Act 1975 (which makes corresponding provision for Scotland),

to prepare a report to the authority with respect to that proposal, decision or omission.

[<sup>F18</sup>(2A) No duty shall arise by virtue of subsection (2)(b) above unless a Local Commissioner (within the meaning of the <sup>M21</sup>Local Government Act 1974) has conducted an investigation under Part III of that Act in relation to the proposal, decision or omission concerned.]

[<sup>F19</sup>(2B) Where a relevant authority are operating executive arrangements, the monitoring officer of the relevant authority shall not make a report under subsection (2) in respect of any proposal, decision or omission unless it is a proposal, decision or omission made otherwise than by or on behalf of the relevant authority's executive.]

(3) It shall be the duty of a relevant authority's monitoring officer—

- (a) in preparing a report under this section to consult so far as practicable with the [<sup>F20</sup>person who is for the time being designated as the head of the authority's paid service under section 4 above] and with their chief finance officer; and
- (b) as soon as practicable after such a report has been prepared by him or his deputy, to arrange for a copy of it to be sent to each member of the authority [<sup>F21</sup>and, in a case where the relevant authority have a mayor and council manager executive, to the council manager of the authority].

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- (4) The references in subsection (2) above, in relation to a relevant authority in England and Wales, to a committee or sub-committee of the authority and to a joint committee on which they are represented shall be taken to include references to any of the following, that is to say—
- <sup>F22</sup>(a) .....
  - (b) any local fisheries committee the members of which include persons so appointed;
  - <sup>F23</sup>(c) .....
  - (d) any sub-committee appointed by a committee falling within paragraphs (a) to (c) above;
- but in relation to any such committee or sub-committee the reference in subsection (3) (b) above to each member of the authority shall have effect as a reference to each member of the committee or, as the case may be, of the committee which appointed the sub-committee.
- (5) It shall be the duty of a relevant authority and of any such committee as is mentioned in subsection (4) above—
- (a) to consider any report under this section by a monitoring officer or his deputy at a meeting held not more than twenty-one days after copies of the report are first sent to members of the authority or committee; and
  - (b) without prejudice to any duty imposed by virtue of section 115 of the <sup>M22</sup>Local Government Finance Act 1988 (duties in respect of conduct involving contraventions of financial obligations) or otherwise, to ensure that no step is taken for giving effect to any proposal or decision to which such a report relates at any time while the implementation of the proposal or decision is suspended in consequence of the report;
- and nothing in section 101 of the <sup>M23</sup>Local Government Act 1972 or in section 56 of <sup>F24</sup>... the <sup>M24</sup>Local Government (Scotland) Act 1973 (delegation) shall apply to the duty imposed by virtue of paragraph (a) above.
- (6) For the purposes of paragraph (b) of subsection (5) above the implementation of a proposal or decision to which a report under this section relates shall be suspended in consequence of the report until the end of the first business day after the day on which consideration of that report under paragraph (a) of that subsection is concluded.
- (7) The duties of a relevant authority’s monitoring officer under this section shall be performed by him personally or, where he is unable to act owing to absence or illness, personally by such member of his staff as he has for the time being nominated as his deputy for the purposes of this section.
- <sup>F25</sup>(7A) Subsection (7) above shall have effect subject to section 82A of the Local Government Act 2000 (monitoring officers: delegation of functions under Part 3 of that Act).]
- (8) In this section [<sup>F26</sup>and in section 5A]—
- “business day”, in relation to a relevant authority, means any day which is not a Saturday or Sunday, Christmas Day, Good Friday or any day which is a bank holiday under the <sup>M25</sup>Banking and Financial Dealings Act 1971 in the part of Great Britain where the area of the authority is situated;
  - “chief finance officer”, in relation to a relevant authority, means the officer having responsibility, for the purposes of section 151 of the Local Government Act 1972, section 73 of the <sup>M26</sup>Local Government Act 1985, section 112 of the Local Government Finance Act 1988 [<sup>F27</sup>, section 127(2)

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of the Greater London Authority Act 1999] or section 6 below or for the purposes of section 95 of the Local Government (Scotland) Act 1973, for the administration of the authority's financial affairs; and

“relevant authority”—

- (a) in relation to England and Wales, means a local authority of any of the descriptions specified in paragraphs (a) to [F28(k)] of section 21(1) below; and
- (b) in relation to Scotland, means a local authority.

[F29(8A) Any reference in this section to the duties of a monitoring officer imposed by this section, or to the duties of a monitoring officer under this section, shall include a reference to the functions which are conferred on a monitoring officer by virtue of Part III of the Local Government Act 2000.]

(9) This section shall come into force at the expiry of the period of two months beginning on the day this Act is passed.

#### Textual Amendments

- F8** Words in s. 5(1)(a) inserted (E.) (11.7.2001) and (W.) (1.4.2002) by S.I. 2001/2237, arts. 1(2), 23(1)(a); S.I. 2002/808, arts. 1(2), **22(1)(a)**
- F9** Words in s. 5(1)(b) inserted (E.) (11.7.2001) and (W.) (1.4.2002) by S.I. 2001/2237, arts. 1(2), 23(1)(b); S.I. 2002/808, arts. 1(2), **22(1)(b)**
- F10** Words in s. 5(1) inserted (E.W.) (28.7.2001) by 2000 c. 22, ss. 107(1), 108(4), **Sch. 5 para. 24(1)(2)**
- F11** Words in s. 5(1)(b) inserted (1.10.1994 for specified purposes otherwise 1.4.1995) by 1994 c. 29, s. 43, **Sch. 4 Pt. I para. 35(a)**; S.I. 1994/2025, **art. 6**; S.I. 1994/3262, **art. 4**, **Sch.** (subject to art. 5)
- F12** Words in s. 5(1) substituted (22.8.1996) by 1996 c. 16, ss. 103(1), 104(1), **Sch. 7 Pt. I para. 1(1)(2) (zd)**
- F13** Words in s. 5(1) inserted (for certain purposes on the “operative date” (as defined in art. 1(2)(c) of S.I. 2000/1095) and on 3.7.2000 for all other purposes) by 1999 c. 29, s. 325, **Sch. 27 para. 62** (with Sch. 12 para. 9(1)); S.I. 2000/1095, **art. 4(2)(c)**
- F14** S. 5(1A)(1B) inserted (E.W.) (28.7.2001) by 2000 c. 22, ss. 107(1), 108(4), **Sch. 5 para. 24(1)(3)**
- F15** Words in s. 5(2) inserted (E.) (11.7.2001) and (W.) (1.4.2002) by S.I. 2001/2237, arts. 1(2), 23(1)(c); S.I. 2002/808, arts. 1(2), **22(1)(c)**
- F16** Words in s. 5(2) substituted (1.10.1994 for specified purposes otherwise 1.4.1995) by 1994 c. 29, s. 43, **Sch. 4 Pt. I para. 35(b)**; S.I. 1994/2025, **art. 6**; S.I. 1994/3262, **art. 4**, **Sch.** (subject to art. 5)
- F17** Words in s. 5(2)(a) repealed (E.W.) (28.7.2001) by 2000 c. 22, ss. 107(1)(2), 108(4), Sch. 5 para. 24(1)(4), **Sch. 6**
- F18** S. 5(2A) inserted (E.W.) (28.7.2001) by 2000 c. 22, ss. 107(1), 108(4), **Sch. 5 para. 24(1)(6)**
- F19** S. 5(2B) inserted (E.) (11.7.2001) and (W.) (1.4.2002) by S.I. 2001/2237, arts. 1(2), 23(1)(d); S.I. 2002/808, arts. 1(2), **22(1)(d)**
- F20** Words in s. 5(3)(a) substituted (1.10.1994 for specified purposes otherwise 1.4.1995) by 1994 c. 29, s. 43, **Sch. 4 Pt. I para. 35(c)**; S.I. 1994/2025, **art. 6**; S.I. 1994/3262, **art. 4**, **Sch.** (subject to art. 5)
- F21** Words in s. 5(3)(b) added (E.) (11.7.2001) and (W.) (1.4.2002) by S.I. 2001/2237, arts. 1(2), 23(1)(e); S.I. 2002/808, arts. 1(2), **22(1)(e)**
- F22** S. 5(4)(a) repealed (1.4.1995) by 1994 c. 29, s. 93, **Sch. 9 Pt. I**; S.I. 1994/3262, **art. 4**, **Sch.** (subject to art. 5)
- F23** S. 5(4)(c) repealed (1.4.1997) by 1995 c. 25, s. 120(3), **Sch. 24** (with ss. 7(6), 115, 117); S.I. 1996/2560, **art. 2**, **Sch.**
- F24** Words in s. 5(5) repealed (1.4.1996) by 1994 c. 39, s. 180(1)(2), Sch. 13 para. 161(1)(4), **Sch. 14** (with s. 128(8)); S.I. 1996/323, **art. 4(1)(c)(d)**, **Sch. 2**
- F25** S. 5(7A) inserted (E.W.) (18.11.2003) by Local Government Act 2003 (c. 26), **ss. 113(3)**, 128(2)(d)
- F26** Words in s. 5(8) inserted (E.) (11.7.2001) and (W.) (1.4.2002) by S.I. 2001/2237, arts. 1(2), 23(1)(f); S.I. 2002/808, arts. 1(2), **22(1)(f)**

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- F27** S. 5(8): words in the definition of "chief finance officer" inserted (8.5.2000 for specified purposes, otherwise 3.7.2000) by 1999 c. 29, s. 132(1)(2) (with Sch. 12 para. 9(1)); S.I. 1999/3434, arts. 3, 4
- F28** S. 5(8): words in para. (a) of the definition of "relevant authority" substituted (E.W.) (28.7.2001) by 2000 c. 22, ss. 107(1), 108(4), Sch. 5 para. 24(1)(7)
- F29** S. 5(8A) inserted (E.W.) (28.7.2001) by 2000 c. 22, ss. 107(1), 108(4), Sch. 5 para. 24(1)(8)

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

- C11** S. 5 extended (E.W.) (19.9.1995) by 1995 c. 25, ss. 63(5), 125(2), Sch. 7 para. 13(7)(b) (with ss. 7(6), 115, 117, Sch. 8 para. 7)
- C12** S. 5 applied (with modifications) (23.11.1995) by S.I. 1995/2803, art. 19(1), Sch. 6 para. 7(3)
- C13** S. 5 applied (with modifications) (8.5.2000) by 1999 c. 29, s. 73 (with Sch. 12 para. 9(1)); S.I. 2000/801, art. 2(2)(b), Sch. Pt. 2 (as amended: (27.5.2000) by S.I. 2000/1435, art. 2, Sch. 1 Pt. I para. 5; (E.W.) (28.7.2001) by 2000 c. 22, ss. 107, 108(4), Sch. 5 para. 24(5), Sch. 6; and (15.1.2012) by Localism Act 2011 (c. 20), s. 240(1)(l), Sch. 22 para. 49; and (1.4.2012) by Localism Act 2011 (c. 20), s. 240(2), Sch. 19 para. 38; S.I. 2012/628, art. 6(i))
- C14** S. 5 extended (with modifications) (8.9.2000) by 2000 asp 10, s. 36, Sch. 5 para. 15 (with s. 32); S.S.I. 2000/312, art. 2
- C15** S. 5 applied (E.) (22.7.2004) by The Cotswolds Area of Outstanding Natural Beauty (Establishment of Conservation Board) Order 2004 (S.I. 2004/1777), arts. 1, 17(7)
- C16** S. 5 applied (E.) (22.7.2004) by The Chilterns Area of Outstanding Natural Beauty (Establishment of Conservation Board) Order 2004 (S.I. 2004/1778), arts. 1, 17(7)(b)
- C17** S. 5(1) applied (10.5.2000) by S.I. 2000/1095, art. 6(5)(a)

#### Marginal Citations

- M19** 1974 c. 7.  
**M20** 1975 c. 30.  
**M21** 1974 c. 7.  
**M22** 1988 c. 41.  
**M23** 1972 c. 70.  
**M24** 1973 c. 65.  
**M25** 1971 c. 80.  
**M26** 1985 c. 51.

### [<sup>F30</sup>5A Reports of monitoring officer—local authorities operating executive arrangements

- (1) Where a relevant authority are operating executive arrangements, the monitoring officer of that authority shall be responsible for performing the duties imposed by this section.
- (2) It shall be the duty of the monitoring officer of a relevant authority that is referred to in subsection (1) above, if at any time it appears to him that any proposal, decision or omission, in the course of the discharge of functions of the relevant authority, by or on behalf of the relevant authority's executive, constitutes, has given rise to or is likely to or would give rise to any of the events referred to in subsection (3), to prepare a report to the executive of the authority with respect to that proposal, decision or omission.
- (3) The events referred to for the purposes of subsection (2) are—
  - (a) a contravention, by the relevant authority's executive or any person on behalf of the executive, of any enactment or rule of law; or
  - (b) any such maladministration or injustice as is mentioned in Part III of the Local Government Act 1974 <sup>F31</sup> (Local Commissioners).

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- (4) No duty shall arise by virtue of subsection (3)(b) above unless a Local Commissioner (within the meaning of the Local Government Act 1974) has conducted an investigation under Part III of that Act in relation to the proposal, decision or omission concerned.
- (5) It shall be the duty of an authority's monitoring officer—
  - (a) in preparing a report under subsection (2) to consult so far as practicable with the person who is for the time being designated as the head of the authority's paid service under section 4 above and with their chief finance officer; and
  - (b) as soon as practicable after such a report has been prepared by him or his deputy, to arrange for a copy of it to be sent to each member of the authority and, where the authority has a mayor and council manager executive, the council manager.
- (6) It shall be the duty of the authority's executive—
  - (a) to consider any report under this section by a monitoring officer or his deputy at a meeting held not more than twenty-one days after copies of the report are first sent to members of the executive; and
  - (b) without prejudice to any duty imposed by virtue of section 115B of the Local Government Finance Act 1988 (duties of executive as regards reports) or otherwise, to ensure that no step is taken for giving effect to any proposal or decision to which such a report relates at any time while the implementation of the proposal or decision is suspended in consequence of the report.
- (7) For the purposes of paragraph (b) of subsection (6) above the implementation of a proposal or decision to which a report under this section, by a monitoring officer or his deputy, relates shall be suspended in consequence of the report until the end of the first business day after the day on which consideration of that report under paragraph (a) of that subsection is concluded.
- (8) As soon as practicable after the executive has concluded its consideration of the report of the monitoring officer or his deputy, the executive shall prepare a report which specifies—
  - (a) what action (if any) the executive has taken in response to the report of the monitoring officer or his deputy;
  - (b) what action (if any) the executive proposes to take in response to that report and when it proposes to take that action; and
  - (c) the reasons for taking the action specified in the executive's report or, as the case may be, for taking no action.
- (9) As soon as practicable after the executive has prepared a report under subsection (8), the executive shall arrange for a copy of it to be sent to each member of the authority and the authority's monitoring officer.
- (10) The duties of an authority's monitoring officer under this section shall be performed by him personally or, where he is unable to act owing to absence or illness, personally by such member of his staff as he has for the time being nominated as his deputy for the purposes of this section.]

#### Textual Amendments

**F30** S. 5A inserted (E.) (11.7.2001) and (W.) (1.4.2002) by S.I. 2001/3327, arts. 1(2), 23(2); S.I. 2002/808, arts. 1(2), 22(2)

*Status: Point in time view as at 22/07/2004.*

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**F31** 1974 c.7.

## **6 Officer responsible for financial administration of certain authorities.**

- (1) On and after the commencement day the Common Council shall—
  - (a) make arrangements for the proper administration of such of its financial affairs as relate to it in its capacity as a local authority, police authority or port health authority, and
  - (b) secure that one of its officers has responsibility for the administration of those affairs.
- (2) Section 17 of the <sup>M27</sup>City of London Sewers Act 1897 (functions of the chamberlain of the City of London as regards financial affairs) shall cease to have effect on the commencement day.
- (3) On and after the commencement day the person having responsibility for the administration of certain of the financial affairs of the Common Council under subsection (1) above shall—
  - (a) be a member of one or more of the bodies specified in subsection (5) below; or
  - (b) be the person who immediately before that day was the chamberlain of the City of London; or
  - (c) be a person who qualifies by virtue of section 113(2)(b) of the <sup>M28</sup>Local Government Finance Act 1988 (existing office holders) as a person who may be given responsibility for the financial affairs of an authority mentioned in section 111(2)(a) to (k) of that Act; or
  - (d) fulfil two or more of those conditions.
- (4) On and after the commencement day the person having responsibility for the administration of the financial affairs of a new successor body under section 73 of the <sup>M29</sup>Local Government Act 1985 shall—
  - (a) be a member of one or more of the bodies specified in subsection (5) below; or
  - (b) be the person who immediately before that day had responsibility for the administration of the financial affairs of the body concerned under the said section 73; or
  - (c) be a person who qualifies by virtue of section 113(2)(b) of the Local Government Finance Act 1988 (existing office holders) as a person who may be given responsibility for the financial affairs of an authority mentioned in section 111(2)(a) to (k) of that Act; or
  - (d) fulfil two or more of those conditions.
- (5) The bodies referred to in subsections (3)(a) and (4)(a) above are—
  - (a) the Institute of Chartered Accountants in England and Wales;
  - (b) the Institute of Chartered Accountants of Scotland;
  - (c) the Chartered Association of Certified Accountants;
  - (d) the Chartered Institute of Public Finance and Accountancy;
  - (e) the Institute of Chartered Accountants in Ireland;
  - (f) the Chartered Institute of Management Accountants;
  - (g) any other body of accountants established in the United Kingdom and for the time being approved by the Secretary of State for the purposes of this section.

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- (6) The Secretary of State may make regulations containing, as regards the Common Council and any new successor body to which section 73 of the <sup>M30</sup>Local Government Act 1985 applies, provisions equivalent to sections 114 to 116 of the <sup>M31</sup>Local Government Finance Act 1988 (reports etc.) subject to—
- (a) modifications to confine the provisions to the Common Council in its capacity as a local authority, police authority or port health authority; and
  - (b) any other modifications the Secretary of State thinks fit;
- and any such regulations may contain such incidental provision and such supplemental, consequential and transitional provision in connection with their other provisions as the Secretary of State considers appropriate.
- (7) In this section—
- “the commencement day” means the day on which this section comes into force;
  - “the Common Council” means the Common Council of the City of London;
  - “new successor body” means a body corporate established at any time by an order under section 67(3) of the Local Government Act 1985 (new body succeeding to residuary body’s functions).
- (8) This section shall come into force at the expiry of the period of two months beginning on the day this Act is passed.

#### Marginal Citations

- M27** 1897 c. cxxxiii.
- M28** 1988c. 41.
- M29** 1985 c. 51.
- M30** 1985c. 51.
- M31** 1988 c. 41.

### *Appointment and management etc. of staff*

## **7 All staff to be appointed on merit.**

- (1) Every appointment of a person to a paid office or employment under—
- (a) a local authority or parish or community council in England and Wales, or
  - (b) a local authority in Scotland,
- shall be made on merit.
- (2) <sup>M32</sup><sup>M33</sup>Subsection (1) above applies to all appointments made by, or by any committee of, a local authority or parish or community council, whether made under section 112 of the Local Government Act 1972 or section 64 of the Local Government (Scotland) Act 1973 (appointment of staff) or otherwise, but has effect subject to—
- <sup>F32</sup>(a) .....
  - (b) section 18 of the <sup>M34</sup>Fire Services Act 1947 (regulations as to appointment etc. of chief officers and fire brigades);
  - (c) section 7 of the <sup>M35</sup>Sex Discrimination Act 1975 (discrimination permitted in relation to employment where sex of employee is a genuine occupational qualification);

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- (d) section 5 of the <sup>M36</sup>Race Relations Act 1976 (discrimination permitted in relation to employment where being of a particular racial group is a genuine occupational qualification); <sup>F33</sup> . . .
  - (e) section 113 of the <sup>M37</sup>Local Government Finance Act 1988 and section 6 above (qualifications of officers responsible for administration of financial affairs of certain authorities) [<sup>F34</sup>; and.
  - <sup>F34</sup>(f) [<sup>F35</sup>sections 4, 4A, 4D and 4E of the Disability Discrimination Act 1995 (discrimination and duties to make adjustments in relation to employees and office-holders).]
- (3) This section shall come into force at the expiry of the period of two months beginning on the day this Act is passed.

#### Textual Amendments

- F32** S. 7(2)(a) omitted (2.12.1996) by virtue of 1995 c. 50, s. 70(4), **Sch. 6 para. 5(a)** (with ss. 59, 64, 65); S.I. 1996/1474, art. 2(3), **Sch. Pt. III**
- F33** Word in s. 7(2)(d) omitted (2.12.1996) by virtue of 1995 c. 50, s. 70(4), **Sch. 6 para. 5(b)** (with ss. 59, 64, 65); S.I. 1996/1474, art. 2(3), **Sch. Pt. III** (and repealed (*prosp.*) by 1995 c. 50, s. 70(3)(5), **Sch. 7** (with ss. 59, 64, 65))
- F34** S. 7(2)(f) and preceding “; and” inserted (2.12.1996) by 1995 c. 50, s. 70(4), **Sch. 6 para. 5(c)** (with ss. 59, 64, 65); S.I. 1996/1474, art. 2(3), **Sch. Pt. III**
- F35** S. 7(2)(f) substituted (3.7.2003 for specified purposes) by The Disability Discrimination Act 1995 (Amendment) Regulations 2003 (S.I. 2003/1673), reg. 1(2)(3), **31(1)**

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

- C18** S. 7 extended (E.W.) (19.9.1995) by 1995 c. 25, ss. 63(5), 125(2), **Sch. 7 para. 13(7)** (with ss. 7(6), 115, 117, Sch. 8 para. 7)  
 S. 7 applied (8.5.2000) by 1999 c. 29, s. 67(6) (with Sch. 12 para. 9(1)); S.I. 2000/801, art. 2(2)(b), **Sch. Pt. 2**
- C19** S. 7 applied (E.) (22.7.2004) by The Cotswolds Area of Outstanding Natural Beauty (Establishment of Conservation Board) Order 2004 (S.I. 2004/1777), arts. 1, **17(7)**
- C20** S. 7 applied (E.) (22.7.2004) by The Chilterns Area of Outstanding Natural Beauty (Establishment of Conservation Board) Order 2004 (S.I. 2004/1778), arts. 1, **17(7)(e)**

#### Marginal Citations

- M32** 1972 c. 70.  
**M33** 1973 c. 65.  
**M34** 1947 c. 41.  
**M35** 1975 c. 65.  
**M36** 1976 c. 74.  
**M37** 1988 c. 41.

## 8 Duty to adopt standing orders with respect to staff.

- (1) The Secretary of State may by regulations require relevant authorities, subject to such variations as may be authorised by the regulations—
- (a) to incorporate such provision as may be prescribed by the regulations instanding orders relating to their staff; and
  - (b) to make or refrain from making such other modifications of any such standing orders as may be so prescribed.



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- (2) For the purposes of this section standing orders relate to the staff of a relevant authority if they make provision for regulating—
- (a) the appointment of persons to paid office or employment under the authority; or
  - (b) the dismissal of persons holding such office or employment and the taking of other disciplinary action against such persons.
- (3) Without prejudice to the generality of subsection (1) above, regulations under this section may require a relevant authority's standing orders—
- (a) so to restrict the manner of exercising the power to take steps for or towards the selection of candidates for interview, or for appointment, as to make it exercisable only by the authority themselves, by a committee or sub-committee of the authority or by particular officers of the authority;
  - (b) to restrict the power of the authority or any of their committees or sub-committees—
    - (i) to give directions to persons making appointments on their behalf as to the identity of the individuals to be appointed; or
    - (ii) otherwise to interfere with the making of appointments by such persons;
  - (c) to require the monitoring officer of the authority to prepare a report to the authority in respect of every proposed appointment of a person to a politically restricted post;
  - (d) to require every such report to state whether, in the opinion of the monitoring officer, the proposed appointment can be made—
    - (i) without any contravention of any provision made by or under this Part; and
    - (ii) without any matter being taken into account which could not properly be taken into account;and, if in his opinion it cannot be so made, his reasons; and
  - (e) to prohibit the authority or any committee, sub-committee or other person acting on their behalf from dismissing or taking other disciplinary action against a person holding office or employment under the authority except in accordance with recommendations contained in a report made to the authority by an independent person of such a description as is prescribed by the regulations.
- (4) Regulations under this section may contain such incidental provision and such supplemental, consequential and transitional provision in connection with their other provisions as the Secretary of State considers appropriate; and that provision may include—
- (a) provision which, for the purposes of any such restriction as is mentioned in subsection (3) above, makes modifications of any enactment with respect to the delegation of a relevant authority's functions;
  - (b) provision which (with or without modifications) applies provisions of section 5 above in relation to any report prepared in consequence of regulations made by virtue of subsection (3)(c) above;
  - (c) provision specifying the consequences—
    - (i) in relation to any appointment or contract of employment;
    - (ii) in relation to any proceedings on a complaint to an [<sup>F36</sup>employment tribunal]; and

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- (iii) in relation to any expenditure incurred by the authority,  
 of any contravention of standing orders made in pursuance of the regulations;  
 and
- [<sup>F37</sup>(d) without prejudice to section 191(1) below, special provision in relation to the appointment of persons—
- (i) in pursuance of section 9 below;  
 (ii) for the purposes of functions exercised by joint committees on which relevant authorities are represented; and  
 (iii) in pursuance of regulations made under paragraph 6 of Schedule 1 to the Local Government Act 2000 (mayor’s assistant).]
- (5) In this section “relevant authority”—
- (a) in relation to England and Wales, means a local authority of any of the descriptions specified in paragraphs (a) to (e) of section 21(1) below; and  
 (b) in relation to Scotland, means a [<sup>F38</sup>council constituted under section 2 of the Local Government etc. (Scotland) Act 1994].

#### Textual Amendments

- F36** Words in s. 8(4)(c)(ii) substituted (1.8.1998) by 1998 c. 8, s. 1(2)(a) (with s. 16(2)); S.I. 1998/1658, art. 2(1), **Sch. 1**
- F37** S. 8(4)(d) substituted (E.) (18.5.2001) by [The Local Authorities \(Executive Arrangements\) \(Modification of Enactments and Further Provisions\) \(England\) Order 2001 \(S.I. 2001/1517\)](#), **art. 5**  
 S. 8(4)(d) substituted (W.) (1.4.2002) by [The Local Authorities \(Executive Arrangements\) \(Modification of Enactments and Further Provisions\) \(Wales\) Order 2002 \(S.I. 2002/803\)](#), **art. 5**
- F38** Words in s. 8(5)(b) substituted (S.) (1.4.1996) by 1994 c. 39, s. 180(1), **Sch. 13 para. 161(1)(5)**; S.I. 1996/323, **art. 4(1)(c)**

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

- C21** S. 8 with the omission of subsection (4)(c) extended (E.W.) (19.9.1995) by 1995 c. 25, ss. 63(5), 125(2), **Sch. 7 para. 13(7)** (with ss. 7(6), 115, 117, Sch. 8 para. 7)  
 S. 8 applied (8.5.2000) by 1999 c. 29, s. 67(6) (with Sch. 12 para. 9(1)); S.I. 2000/801, art. 2(2)(b), **Sch. Pt. 2**
- C22** S. 8 applied (E.W.) (22.7.2004) by [The Chilterns Area of Outstanding Natural Beauty \(Establishment of Conservation Board\) Order 2004 \(S.I. 2004/1778\)](#), arts. 1, **17(7)(d)**
- C23** S. 8 applied (E.W.) (22.7.2004) by [The Cotswolds Area of Outstanding Natural Beauty \(Establishment of Conservation Board\) Order 2004 \(S.I. 2004/1777\)](#), arts. 1, **17(7)**

## 9 Assistants for political groups.

- (1) Nothing in section 7(1) above or in any enactment, standing order or rule of law by virtue of which it is unlawful for a relevant authority or any committee or sub-committee of such an authority to have regard to any person’s political activities or affiliations in determining whether he should be appointed to any paid office or employment under the authority shall apply to the appointment of a person in pursuance of this section.
- (2) An appointment is an appointment in pursuance of this section if—
- (a) the appointment is made for the purpose of providing assistance, in the discharge of any of their functions as members of a relevant authority, to the members of any political group to which members of the authority belong;

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- (b) the terms of the appointment comply with subsection (3) below;
  - (c) the appointment is to one of not more than three posts which a relevant authority have decided to create for the purposes of this section; and
  - (d) each of those posts falls, under the standing orders of the authority, to be filled from time to time in accordance with the wishes of a political group to which the post has been allocated under those standing orders.
- (3) The terms on which any person is appointed to or holds any appointment in pursuance of this section must be such as secure that the annual rate of remuneration for the post is less than the relevant amount and that the appointment terminates at or before the end of—
- (a) in the case of a post under an authority in England and Wales, the day in the appropriate year on which the authority hold the meeting which they are required to hold in pursuance of paragraph 1 of Part I of Schedule 12 to the <sup>M38</sup>Local Government Act 1972 (annual meeting of principal councils); and
  - (b) in the case of a post under an authority in Scotland, the first day after the appointment on which a meeting is held in pursuance of the requirement under paragraph 1 of Schedule 7 to the <sup>M39</sup>Local Government (Scotland) Act 1973 that a meeting is held within twenty-one days from the date of an election.
- (4) For the purposes of subsection (3) above the annual rate of remuneration for a post under a relevant authority is less than the relevant amount if the annual rate of remuneration in respect of the post—
- (a) is less than £13,500 or such higher amount as the Secretary of State may by order made by statutory instrument specify; and
  - (b) where that post is a part time post, would be less than that amount if it were a full time post and carried remuneration at the same rate;
- and a statutory instrument containing an order under this subsection shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (5) The standing orders of a relevant authority the members of which are divided into different political groups shall, for the purposes of subsection (2)(d) above—
- (a) prohibit the making of an appointment to any post allocated to a political group until the authority have allocated a post to each of the groups which qualify for one;
  - (b) prohibit the allocation of a post to a political group which does not qualify for one; and
  - (c) prohibit the allocation of more than one post to any one political group.
- (6) Subject to subsection (7) below, where the members of a relevant authority are divided into different political groups, a group shall qualify for a post if—
- (a) the membership of that group comprises at least one-tenth of the membership of the authority;
  - (b) the number of the other groups (if any) which are larger than that group does not exceed two; and
  - (c) where the number of the other groups which are the same size as or larger than that group exceeds two, the authority have determined that that group should be a group to which a post is allocated;
- and it shall be the duty of a relevant authority, before making any allocation for the purposes of this section in a case in which there are groups which would qualify for posts if paragraph (c) above were disregarded, to make such determinations under that

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paragraph as secure that there are no more nor less than three groups which do qualify for a post.

- (7) Where the members of a relevant authority are divided into political groups only one of which has a membership that comprises one-tenth or more of the membership of the authority—

- (a) the groups qualifying for a post shall be that group and one other group; and
- (b) the other group shall be the one with the next largest membership or, in a case in which there is more than one group with the next largest membership, such one of those groups as may be determined by the authority;

and, in such a case, it shall be the duty of the authority to determine which of the groups with the next largest membership is to qualify for a post before making any allocation for the purposes of this section to the group with the largest membership.

- (8) Neither a relevant authority nor any committee or sub-committee of a relevant authority shall exercise any power under—

- (a) section 101 of the <sup>M40</sup>Local Government Act 1972 (delegation); or
- (b) section 56 of [<sup>F39</sup>, or Schedule 10 or 20 to,] the <sup>M41</sup>Local Government (Scotland) Act 1973 (which makes corresponding provision for Scotland), [<sup>F40</sup>; or
- (c) Part II of the Local Government Act 2000 (arrangements with respect to executives etc.)]

so as to arrange for the discharge of any of the authority's functions by any person who holds a post under the authority to which he was appointed in pursuance of this section.

- [<sup>F41</sup>(8A) Neither an executive, a committee of an executive or a member of an executive, of a relevant authority, shall exercise any power under—

- (a) sections 14 to 18 of the Local Government Act 2000 (discharge of functions); or
- (b) section 101(5) of the Local Government Act 1972 (arrangements for the discharge of functions by local authorities),

so as to arrange for the discharge of any of the authority's functions by any person who holds a post under the authority to which he was appointed in pursuance of this section.

- (8B) An area committee of a relevant authority shall not exercise any power under arrangements made under regulations made under section 18 of the Local Government Act 2000 (discharge of functions by area committees) so as to arrange for the discharge of any of the authority's functions by any person who holds a post under the authority to which he was appointed in pursuance of this section.]

- (9) No person holding any office or employment under a relevant authority shall be required to work under the direction of a person holding a post to which he was appointed in pursuance of this section except for the purpose of providing that person, or the political group to which his post is allocated, with secretarial or clerical services.

- (10) Without prejudice to section 8 above, the Secretary of State may, for the purposes of this section and any standing orders relating to appointments in pursuance of this section, by regulations make provision—

- (a) as to the circumstances in which the members of a relevant authority are to be treated as divided into different political groups;
- (b) as to the persons who are to be treated as members of such a group and as to when a person is to be treated as having ceased to be a member of such a group;

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- (c) requiring the question whether a person is or is not a member of apolitical group to be determined in such manner as may be provided for by or under the regulations;
- (d) requiring a relevant authority from time to time to review allocations made for the purposes of this section;
- (e) specifying the manner in which, and times at which, the wishes of a political group are to be expressed and the consequences of a failure by such a group to express its wishes;

and regulations under this section may contain such incidental provision and such supplemental, consequential and transitional provision in connection with their other provisions as the Secretary of State considers appropriate.

(11) In this section—

“appropriate year”, in relation to a post held by any person under a relevant authority, means—

- (a) where the authority is one in relation to which provision for whole council elections has been made by virtue of section 7(4)(a) or 26(2)(a) of the <sup>M42</sup>Local Government Act 1972, the period of twelve months beginning with the first such election to be held after that person is appointed to that post; and
- (b) in any other case, the period of twelve months beginning with the third anniversary of that person’s appointment to that post;

[<sup>F42</sup>“area committee” has the same meaning as in section 18 of the Local Government Act 2000;]

“membership”, in relation to a relevant authority, means the number of persons who are for the time being members of the authority;

“relevant authority”—

- (a) in relation to England and Wales, means the council of any county, [<sup>F43</sup>county borough] district or London borough; and
- (b) in relation to Scotland, means a [<sup>F44</sup>council constituted under section 2 of the Local Government etc. (Scotland) Act 1994].

#### Textual Amendments

- F39** Words in s. 9(8)(b) repealed (S.) (1.4.1996) by 1994 c. 39, s. 180(1)(2), Sch. 13 para. 161(1)(6)(a), Sch. 14 (with s. 128(8)); S.I. 1996/323, art. 4(1)(c)(d), Sch. 2
- F40** S. 9(8)(c) and the word preceding it inserted (E.) (11.7.2001) and (W.) (1.4.2002) by S.I. 2001/2237, arts. 1(2), 24(a); S.I. 2002/808, arts. 1(2), 23(a)
- F41** S. 9(8A)(8B) inserted (E.) (11.7.2001) and (W.) (1.4.2002) by S.I. 2001/2237, arts. 1(2), 24(b); S.I. 2002/808, arts. 1(2), 23(b)
- F42** S. 9(11): definition of "area committee" inserted (E.) (11.7.2001) and (W.) (1.4.2002) by S.I. 2001/2237, arts. 1(2), 24(c); S.I. 2002/808, arts. 1(2), 23(c)
- F43** S. 9(11): words in the definition of “relevant authority” para. (a) inserted (7.1.1997) by S.I. 1996/3071, art. 2, Sch. para. 3(1)
- F44** S. 9(11): words in the definition of “relevant authority” para. (b) substituted (S.) (1.4.1996) by 1994 c. 39, s. 180(1), Sch. 13 para. 161(1)(6)(b) (with s. 128(8)); S.I. 1996/323, art. 4(1)(c)

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

- C24** S. 9 applied in part (8.5.2000) by 1999 c. 29, s. 67(8) (with Sch. 12 para. 9(1)); S.I. 2000/801, art. 2(2)(b), Sch. Pt. 2

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**C25** S. 9 applied in part (with modifications) (E.) (6.5.2002) by [The Local Authorities \(Elected Mayor and Mayor's Assistant\) \(England\) Regulations 2002 \(S.I. 2002/975\)](#), regs. 1(2), **3(7)(8)**

#### Marginal Citations

**M38** 1972 c. 70.  
**M39** 1973 c. 65.  
**M40** 1972 c. 70.  
**M41** 1973 c. 65.  
**M42** 1972 c. 70.

## 10 Limit on paid leave for local authority duties.

(1) Notwithstanding anything in [<sup>F45</sup>section 50(4) of the Employment Rights Act 1996] (conditions of time off for public duties), where—

- (a) a local authority permit an employee of theirs to take time off for the purpose of performing the duties of a member of a relevant council; and
- (b) those duties do not include the duties of chairman of the council,

it shall be unlawful for the authority to make any payment of remuneration or other payment to that employee in respect of so much (if any) of any time off for that purpose as is in excess of two hundred and eight hours in any one financial year and is time off to which the employee would not be entitled apart from his membership of that council.

(2) In this section—

“chairman”, in relation to a relevant council, includes any corresponding office the holder of which is referred to as mayor or Lord Mayor or by any other description;

“employee” has the same meaning as in the [<sup>F46</sup>the Employment Rights Act 1996];

“financial year” means the twelve months ending with 31st March; and

“relevant council” means the council of any county, [<sup>F47</sup>county borough] district or London borough, the Common Council of the City of London, a parish or community council or any council in Scotland which is a local authority for the purposes of [<sup>F48</sup>subsection (2) of section 50] of that Act (time off for public duties);

and subsection (3) of that section (meaning of duties of a member of a body) shall apply for the purposes of this section as it applies for the purposes of that section.

#### Textual Amendments

- F45** Words in s. 10(1) substituted (22.8.1996) by 1996 c. 18, ss. 240, 243, [Sch. 1 para. 44\(a\)](#) (with ss. 191-195, 202)
- F46** S. 10(2): words in the definition of “employee” substituted (22.8.1996) by 1996 c. 18, ss. 240, 243, [Sch. 1 para. 44\(b\)\(i\)](#) (with ss. 191-195, 202)
- F47** S. 10(2): words in the definition of “relevant council” inserted (7.1.1997) by S.I. 1996/3071, [art. 2](#), [Sch. para. 3\(2\)](#)
- F48** S. 10(2): words in the definition of “relevant council” substituted (22.8.1996) by 1996 c. 18, ss. 240, 243, [Sch. 1 para. 44\(b\)\(ii\)](#) (with ss. 191-195, 202)

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

- C26** S. 10 applied (S.) (*temp.* 6.4.1995 to 1.4.1996) by S.I. 1995/789, [art. 2](#), [Sch.](#) entry 11

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- S. 10 extended (E.W.) (19.9.1995) by 1995 c. 25, ss. 63(5), 125(2), **Sch. 7 para. 11(3)** (with ss. 7(6), 115, 117, Sch. 8 para. 7)
- C27** S. 10 applied (E.W.) (22.7.2004) by The Cotswolds Area of Outstanding Natural Beauty (Establishment of Conservation Board) Order 2004 (S.I. 2004/1777), arts. 1, **15(2)**
- C28** S. 10 applied (E.W.) (22.7.2004) by The Chilterns Area of Outstanding Natural Beauty (Establishment of Conservation Board) Order 2004 (S.I. 2004/1778), arts. 1, **15(2)**

## 11 Confidentiality of staff records.

- (1) Nothing in [<sup>F49</sup>section 17 of the <sup>M43</sup>Local Government Finance Act 1982 or] section 79 of the <sup>M44</sup>Local Government Act 1985 (public inspection of accounts etc.) or in section 101 or 106 of the <sup>M45</sup>Local Government (Scotland) Act 1973 (which makes corresponding provision for Scotland) shall entitle any person—
- to inspect so much of any document as contains personal information about a member of the relevant body's staff; or
  - to require any such information to be disclosed in answer to any question.
- (2) Information shall be regarded as personal information about a member of the relevant body's staff if it relates specifically to a particular individual and is available to that body for reasons connected with the fact—
- that that individual holds or has held any office or employment under that body; or
  - that payments or other benefits in respect of any office or employment under any other person are or have been made or provided to that individual by that body.
- (3) In this section—
- “document” includes accounts, books, deeds, contracts, bills, vouchers and receipts; and
- “relevant body” in relation to accounts which are required to be audited in accordance with [<sup>F50</sup>the Audit Commission Act 1998] or Part VII of the said Act of 1973, means the body whose accounts are required to be audited or, as the case may be, the Common Council of the City of London;
- and references in this section to a payment made or benefit provided to an individual in respect of any office or employment include references to a payment made or benefit provided to him in respect of his ceasing to hold the office or employment.
- (4) This section shall have effect only in relation to—
- the inspection of, or of documents relating to, accounts for periods beginning on or after 1st April 1990; and
  - the disclosure of information in answer to questions about such accounts.

### Textual Amendments

- F49** Words in s. 11(1) repealed (E.W.) (11.9.1998) by 1998 c. 18, ss. 54(1)(3), 55(2), Sch. 3 para. 18(1)(a), **Sch. 5**
- F50** S. 11(3): words in definition of “relevant body” substituted (E.W.) (11.9.1998) by 1998 c. 18, ss. 54(1), 55(2), **Sch. 3 para. 18(1)(b)**

### Modifications etc. (not altering text)

- C29** S. 11 applied (S.) (*temp.* 6.4.1995 to 1.4.1996) by S.I. 1995/789, art. 2, **Sch.** entry 11

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### Marginal Citations

- M43** 1982 c. 32.  
**M44** 1985 c. 51.  
**M45** 1973c. 65.

## 12 Conflict of interest in staff negotiations.

- (1) It shall be the duty of a local authority to secure that, so far as practicable, the interests of that authority in any negotiations with respect to the terms and conditions on which persons in local authority employment hold office or are employed are never represented, whether directly or indirectly by, or by persons who include—
- (a) a person who is both a member of the authority and in such employment; or
  - (b) a person who is both a member of the authority and an official or employee of a trade union whose members include persons in local authority employment.

- (2) In this section—

[<sup>F51</sup> “member”, in relation to a trade union consisting wholly or partly of, or of representatives of, constituent or affiliated organisations, includes a member of any of its constituent or affiliated trade unions;]

“official” and “trade union” have the same meanings as in <sup>M46</sup>[<sup>F52</sup>the Trade Union and Labour Relations (Consolidation) Act 1992]

and a person shall be treated for the purposes of this section as in local authority employment if he holds any paid office or employment under a local authority or any such paid office or employment under any other person as, by virtue of section 80(1)(a) of the <sup>M47</sup>Local Government Act 1972 or section 31(1)(a) of the <sup>M48</sup>Local Government (Scotland) Act 1973, disqualifies him for membership of any authority.

- (3) This section shall come into force at the expiry of the period of two months beginning on the day this Act is passed.

### Textual Amendments

- F51** Definition of 'member' in s. 12(2) substituted (16.10.1992) by [Trade Union and Labour Relations \(Consolidation\) Act 1992 \(c. 52\), ss. 300\(2\), 302, Sch. 2 para. 39\(2\)](#)
- F52** Words in s. 12(2) substituted (16.10.1992) by [Trade Union and Labour Relations \(Consolidation\) Act 1992 \(c. 52\), ss. 300\(2\), 302, Sch. 2 para. 39\(3\)](#)

### Modifications etc. (not altering text)

- C30** S. 12 applied (S.) (*temp.* 6.4.1995 to 1.4.1996) by [S.I. 1995/789, art. 2, Sch. entry 11](#)  
 S. 12 extended (E.W.) (19.9.1995) by [1995 c. 25, ss. 63\(5\), 125\(2\), Sch. 7 para. 13\(8\)](#) (with [ss. 7\(6\), 115, 117, Sch. 8 para. 7](#))  
 S. 12 applied (with modifications) by [1995 c. x, ss. 1\(3\), 44, Sch. Pt. I](#)
- C31** S. 12 applied (E.W.) (22.7.2004) by [The Chilterns Area of Outstanding Natural Beauty \(Establishment of Conservation Board\) Order 2004 \(S.I. 2004/1778\), arts. 1, 17\(7\)\(e\)](#)
- C32** S. 12 applied (E.W.) (22.7.2004) by [The Cotswolds Area of Outstanding Natural Beauty \(Establishment of Conservation Board\) Order 2004 \(S.I. 2004/1777\), arts. 1, 17\(7\)](#)

### Marginal Citations

- M46** 1974 c.52.  
**M47** 1972 c. 70.



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**M48** 1973 c. 65.

*Voting rights of members of certain committees*

**13 Voting rights of members of certain committees: England and Wales.**

- (1) Subject to the following provisions of this section, a person who—
- (a) is a member of a committee appointed under a power to which this section applies by a relevant authority and is not a member of that authority;
  - (b) is a member of a joint committee appointed under such a power by two or more relevant authorities and is not a member of any of those authorities; or
  - (c) is a member of a sub-committee appointed under such a power by such a committee as is mentioned in paragraph (a) or (b) above and is not a member of the relevant authority, or one of the relevant authorities, which appointed that committee,

shall for all purposes be treated as a non-voting member of that committee, joint committee or, as the case may be, sub-committee.

- (2) The powers to which this section applies are—
- (a) the powers conferred on any relevant authority by subsection (1) of section 102 of the <sup>M49</sup>Local Government Act 1972 (ordinary committees, joint committees and sub-committees);
  - <sup>F53</sup>(b) .....
  - (c) the powers exercisable by any relevant authority for the purposes of section 2 of the <sup>M50</sup>Local Authority Social Services Act 1970 (social services committees) or by virtue of section 4 of that Act (joint social services committees and sub-committees).

- (3) Nothing in subsection (1) above shall require a person to be treated as a non-voting member of a committee or sub-committee falling within subsection (4) below; but, except—
- (a) in the case of a sub-committee appointed by a committee falling within paragraph (e) of that subsection; and
  - (b) in such cases as may be prescribed by regulations made by the Secretary of State,

a person who is a member of a sub-committee falling within that subsection shall for all purposes be treated as a non-voting member of that sub-committee unless he is a member of the committee which appointed the sub-committee.

- (4) A committee or sub-committee falls within this subsection if it is—
- <sup>F54</sup>(a) .....
  - (b) a local fisheries committee for any sea fisheries district;
  - (c) a committee established in accordance with any regulations made by virtue of section 7 of the <sup>M51</sup>Superannuation Act 1972 (regulations making provision for the superannuation of persons employed in local government service etc.);
  - <sup>F55</sup>(d) .....
  - (e) a committee appointed under section 102(4) of the Local Government Act 1972 (appointment of advisory committees by local authorities);

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- (f) a committee constituted in accordance with [<sup>F56</sup>Part I of Schedule 33 to the Education Act 1996 (constitution of appeal committees for admission appeals etc.)];
  - (g) a committee established exclusively for the purpose of discharging such functions of a relevant authority as may be prescribed by regulations made by the Secretary of State;
  - (h) a sub-committee appointed by a committee falling within any of [<sup>F57</sup>paragraphs (b) to (g)] above or such a sub-committee as is so prescribed.
- [<sup>F58</sup>(5) Nothing in this section shall prevent the appointment of a person who is not a member of a local education authority as a voting member of—
- (a) any committee or sub-committee appointed by the local authority wholly or partly for the purpose of discharging any functions with respect to education conferred on them in their capacity as a local education authority,
  - (b) any joint committee appointed by two or more local authorities wholly or partly for the purpose of discharging any functions with respect to education conferred on them in their capacity as local education authorities, or
  - (c) any sub-committee appointed by any such committee or joint committee wholly or partly for the purpose of discharging any of that committee’s functions with respect to education,
- where that appointment is required [<sup>F59</sup>either] by directions given by the Secretary of State under section 499 of the Education Act 1996 (power of Secretary of State to direct appointment of members of committees) [<sup>F60</sup>or pursuant to regulations under subsection (6) of that section].]
- [<sup>F61</sup>(5A) Nothing in this section shall prevent the appointment of a council manager of a local authority, or one other officer of that local authority in his place, as a voting member of a joint committee, or a sub-committee of such a committee, where—
- (a) that local authority have a mayor and council manager executive <sup>F62</sup>; and
  - (b) the joint committee or the sub-committee has been appointed for the purpose of discharging functions which, as respects that local authority, are the responsibility of that executive.]
- [<sup>F63</sup>(6) The Secretary of State may, if it appears to him appropriate to do so in consequence of the preceding provisions of this section, withdraw any approval given before the coming into force of this section in relation to any arrangements for the purposes of paragraph 1 of Part II of Schedule 1 to the said Act of 1944].
- (7) Where a person is treated by virtue of this section as a non-voting member of any committee, joint committee or sub-committee, he shall not be entitled to vote at any meeting of the committee, joint committee or sub-committee on any question which falls to be decided at that meeting; and the reference in subsection (5) above to a voting member, in relation to any [<sup>F64</sup>committee, joint committee or sub-committee appointed for the purpose mentioned in that subsection], is a reference to a person who is entitled to vote at any meeting of that committee or sub-committee on any question which falls to be decided at that meeting.
- (8) In subsection (3) of section 102 of the <sup>M52</sup>Local Government Act 1972, the words from “but at least” onwards (which require at least two-thirds of certain committees to be members of the appointing authority or authorities) shall be omitted.
- (9) In this section—

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[<sup>F65</sup>“council manager”, “executive” and “mayor and council manager executive” have the same meaning as in Part II of the Local Government Act 2000 (arrangements with respect to executives etc.); and]

<sup>F66</sup>

“relevant authority” means a local authority of any of the descriptions specified in [<sup>F67</sup>paragraphs (a) to (f) or (h) to (j)] of section 21(1) below or any parish or community council;

and references in this section to voting include references to making use of a casting vote.

### Textual Amendments

- F53** S. 13(2)(b) repealed (1.4.1994) by 1993 c. 35, s. 307(1)(3), Sch. 19 para. 156(a), **Sch. 21 Pt. II**; S.I. 1994/507, art. 4(1), **Sch. 2**
- F54** S. 13(4)(a) repealed (1.4.1995) by 1994 c. 29, s. 93, **Sch. 9 Pt. I**; S.I. 1994/3262, art. 4, **Sch.** (subject to art. 5)
- F55** S. 13(4)(d) repealed (1.4.1997) by 1995 c. 25, s. 120(3), **Sch. 24** (with ss. 7(6), 115, 117); S.I. 1996/2560, art. 2, **Sch.**
- F56** Words in s. 13(4)(f) substituted (1.11.1996) by 1996 c. 56, ss. 582(1), 583(2), **Sch. 37 Pt. I para. 96(1)(2)** (with ss. 1(4), 561, 562, Sch. 39 paras. 30, 39)
- F57** Words in s. 13(4)(h) substituted (1.10.1994 for specified purposes otherwise 1.4.1995) by 1994 c. 29, ss. 43, 94(1), **Sch. 4 para. 36(a)**; S.I. 1994/2025, art. 6; S.I. 1994/3262, art. 4, **Sch.** (subject to art. 5)
- F58** S. 13(5) substituted (1.11.1996) by 1996 c. 56, ss. 582(1), 583(2), **Sch. 37 Pt. I para. 96(1)(3)** (with ss. 1(4), 561, 562, Sch. 39 paras. 30, 39)
- F59** Word in s. 13(5) inserted (1.9.1999) by 1998 c. 31, s. 140(1), **Sch. 30**, para. 22(a) (with ss. 138(9), 144(6)); S.I. 1999/2323, art. 2(1), **Sch. 1**
- F60** Words in s. 13(5) inserted (1.9.1999) by 1998 c. 31, s. 140(1), **Sch. 30**, para. 22(b) (with ss. 138(9), 144(6)); S.I. 1999/2323, art. 2(1), **Sch. 1**
- F61** S. 13(5A) inserted (E.) (18.5.2001) and (W.) (1.4.2002) by S.I. 2001/1517, art. 6(1)(a); S.I. 2002/803, art. 6(1)(a)
- F62** See regulations 11 and 12 of the [Local Authorities \(Arrangements for the Discharge of Functions\) \(England\) Regulations 2000](#) (S.I. 2000/2851) and the [Local Authorities \(Executive Arrangements\) \(Discharge of Functions\) \(Wales\) Regulations 2001](#) (S.I. 2001/2287 (W.175)).
- F63** S. 13(6) repealed (1.4.1994) by 1993 c. 35, s. 307(1)(3), Sch. 19 para. 156(c), **Sch. 21 Pt. II**; S.I. 1994/507, art. 4(1), **Sch. 2**
- F64** Words in s. 13(7) substituted (1.11.1996) by 1996 c. 56, ss. 582(1), 583(2), **Sch. 37 Pt. I para. 96(1)(4)** (with ss. 1(4), 561, 562, Sch. 39 paras. 30, 39)
- F65** S. 13(9): definition inserted (E.) (18.5.2001) and (W.) (1.4.2002) by S.I. 2001/1517, art. 6(1)(b); S.I. 2002/803, art. 6(1)(b)
- F66** S. 13(9): the definition of “foundation governors” and the “and” immediately following it repealed (1.11.1996) by 1996 c. 56, ss. 582(1)(2), 583(2), Sch. 37 Pt. I para. 96(1)(5), **Sch. 38 Pt. I** (with ss. 1(4), 561, 562, Sch. 39 paras. 5, 6, 8, 30, 39)
- F67** S. 13(9): words in the definition of “relevant authority” substituted (1.10.1994 for specified purposes otherwise 1.4.1995) by 1994 c. 29, ss. 43, 94(1), **Sch. 4 para. 36(a)**; S.I. 1994/2025, art. 6; S.I. 1994/3262, art. 4, **Sch.** (subject to art. 5)

### Modifications etc. (not altering text)

- C33** S. 13 extended (19.9.1995) by 1995 c. 25, ss. 63(5), 125(2), **Sch. 7 para. 13(2)** (with ss. 7(6), 115, 117, Sch. 8 para. 7)
- S. 13 excluded (8.5.2000) by 1999 c. 29, s. 154(4), **Sch. 10 para. 9(2)** (with Sch. 12 para. 9(1)); S.I. 2000/801, art. 2(2)(b), **Sch. Pt. 2**

*Status: Point in time view as at 22/07/2004.*

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- C34** S. 13 applied (E.) (22.7.2004) by [The Chilterns Area of Outstanding Natural Beauty \(Establishment of Conservation Board\) Order 2004 \(S.I. 2004/1778\)](#), arts. 1, **17(2)**
- C35** S. 13 applied (E.) (22.7.2004) by [The Cotswolds Area of Outstanding Natural Beauty \(Establishment of Conservation Board\) Order 2004 \(S.I. 2004/1777\)](#), arts. 1, **17(2)**

**Marginal Citations**

- M49** 1972 c. 70.
- M50** 1970 c. 42.
- M51** 1972 c. 11.
- M52** 1972 c. 70.

**14 Voting rights of members of certain committees: Scotland.**

- (1) Subject to the following provisions of this section, a person who—
  - (a) is a member of a committee appointed under subsection (1) of section 57 of the <sup>M53</sup>Local Government (Scotland) Act 1973 by a relevant authority and is not a member of that authority;
  - (b) is a member of a joint committee appointed under that subsection by two or more relevant authorities and is not a member of any of those authorities; or
  - (c) is a member of a sub-committee appointed under that subsection by such a committee as is mentioned in paragraph (a) or (b) above and is not a member of the relevant authority, or one of the relevant authorities, which appointed that committee,

shall for all purposes be treated as a non-voting member of that committee, joint committee or, as the case may be, sub-committee.

<sup>F68</sup>(2) .....

<sup>F68</sup>(3) .....

- (4) Nothing in [<sup>F69</sup>subsection (1)] above shall require a person to be treated as a non-voting member of a committee or sub-committee falling within subsection (5) below; but, except—

- (a) in the case of a sub-committee appointed by a committee falling within paragraph (b) of that subsection; and
- (b) in such cases as may be prescribed by regulations made by the Secretary of State,

a person who is a member of a sub-committee falling within that subsection shall for all purposes be treated as a non-voting member of that sub-committee unless he is a member of the committee which appointed the sub-committee.

- (5) A committee or sub-committee falls within this subsection if it is—
  - (a) a committee established in accordance with any regulations made by virtue of section 7 of the <sup>M54</sup>Superannuation Act 1972 (regulations making provision for the superannuation of persons employed in local government service etc.);
  - (b) a committee appointed under section 57(4) of the <sup>M55</sup>Local Government (Scotland) Act 1973 (appointment of advisory committees by local authorities);
  - (c) a committee constituted in accordance with Schedule A1 to the <sup>M56</sup>Education (Scotland) Act 1980 (appeal committees for hearing placing and other appeals);

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- [<sup>F70</sup>(d) a Children’s Panel Advisory Committee formed under paragraph 3, or a joint advisory committee formed under paragraph 8, of Schedule 1 to the Children (Scotland) Act 1995;]
- (e) a committee established exclusively for the purpose of discharging such functions of a relevant authority as may be prescribed by regulations made by the Secretary of State;
- (f) a sub-committee appointed by a committee falling within any of paragraphs (a) to (e) above or such a sub-committee as is so prescribed.
- [<sup>F71</sup>(6) Nothing in this section shall prevent the appointment as a voting member of—
- (a) a committee such as is mentioned in subsection (1) of section 124 of the <sup>M57</sup>Local Government (Scotland) Act 1973 (committees appointed by education authority); or
- (b) a joint committee of two or more authorities whose purposes include either of those mentioned in paragraphs (a) and (b) of that subsection; or
- (c) any sub-committee of such a committee or joint committee,  
of a person such as is mentioned in subsection (4) of the said section 124.]
- (7) Where a person is treated by virtue of this section as a non-voting member of any committee, joint committee or sub-committee, he shall not be entitled to vote at any meeting of the committee, joint committee or sub-committee on any question which falls to be decided at that meeting; and the reference in subsection (6) above to a voting member, in relation to any such committee, joint committee or sub-committee as is mentioned in that subsection, is a reference to a person who is entitled to vote at any meeting of that committee, joint committee or sub-committee on any question which falls to be decided at that meeting.
- (8) In the Local Government (Scotland) Act 1973—
- (a) in section 57(3), the words from “but at least” onwards (which require at least two-thirds of certain committees to be members of the appointing authority or authorities);
- [<sup>F72</sup>(aa) section 124(5);]
- (b) in section 161(6), the words from “but at least” onwards (which make corresponding provision in relation to a social work committee);
- (c) in Schedule 10, paragraph 11 (which requires at least half of a joint education committee to be members of the appointing authorities);
- (d) in Schedule 20, paragraph 10 (which requires at least two-thirds of a joint social work committee to be members of the appointing authorities),  
shall be omitted.
- (9) In this section “relevant authority” means a [<sup>F73</sup>council constituted under section 2 of the Local Government etc. (Scotland) Act 1994]; and references in this section to voting include references to making use of a casting vote.

#### Textual Amendments

- F68** S. 14(2)(3) repealed (1.4.1996) by 1994 c. 39, s. 180(1)(2), Sch. 13 para. 161(1)(7)(a), Sch. 14 (with s. 128(8)); S.I. 1996/323, art. 4(1)(c)(d), Sch. 2
- F69** Words in s. 14(4) substituted (1.4.1996) by 1994 c. 39, s. 180(1), Sch. 13 para. 161(1)(7)(b) (with s. 128(8)); S.I. 1996/323, art. 4(1)(c)
- F70** S. 14(5)(d) substituted (1.4.1997) by 1995 c. 36, s. 105(4), Sch. 4 para. 49(1)(2) (with s. 103(1)); S.I. 1996/3201, art. 3(7)

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- F71** S. 14(6) substituted (1.4.1996) by 1994 c. 39, s. 180(1), **Sch. 13 para. 161(1)(7)(d)** (with s. 128(8)); S.I. 1996/323, **art. 4(1)(c)**
- F72** S. 14(8)(aa) inserted (1.4.1996) by 1994 c. 39, s. 180(1), **Sch. 13 para. 161(1)(7)(e)** (with s. 128(8)); S.I. 1996/323, **art. 4(1)(c)**
- F73** Words in s. 14(9) substituted (1.4.1996) by 1994 c. 39, s. 180(1), **Sch. 13 para. 161(1)(7)(f)** (with s. 128(8)); S.I. 1996/323, **art. 4(1)(c)**

#### **Marginal Citations**

- M53** 1973 c. 65.  
**M54** 1972 c. 11.  
**M55** 1973 c. 65.  
**M56** 1980 c.44.  
**M57** 1973 c. 65.

*Political balance on committees etc.*

## **15 Duty to allocate seats to political groups.**

- (1) It shall be the duty of a relevant authority having power from time to time to make appointments to a body to which this section applies to review the representation of different political groups on that body—
- (a) where the members of the authority are divided into different political groups at the time when this section comes into force, as soon as practicable after that time;
  - (b) where the authority hold annual meetings in pursuance of paragraph 1 of Part I of Schedule 12 to the <sup>M58</sup>Local Government Act 1972 (annual meeting of principal councils) and the members of the authority are divided into different political groups at the time of any such meeting, at or as soon as practicable after the meeting;
  - (c) where, at the time of the meeting required by paragraph 1 of Schedule 7 to the <sup>M59</sup>Local Government (Scotland) Act 1973 to be held in an election year within twenty-one days of the election, the members of the authority are divided into different political groups, at or as soon as practicable after the meeting;
  - (d) as soon as practicable after any such division as is mentioned in paragraphs (a) to (c) above occurs; and
  - (e) at such other times as may be prescribed by regulations made by the Secretary of State.
- (2) Except in such cases as may be prescribed by regulations made by the Secretary of State, it shall be the duty of every committee of a relevant authority which is a committee having power from time to time to make appointments to a body to which this section applies to review the representation of different political groups on that body—
- (a) where the members of the authority are divided into different political groups at the time when this section comes into force, as soon as practicable after that time; and
  - (b) as soon as practicable after any occasion on which the members of the committee are changed in consequence of a determination under this section.
- (3) Where at any time the representation of different political groups on a body to which this section applies falls to be reviewed under this section by any relevant authority or

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committee of a relevant authority, it shall be the duty of that authority or committee, as soon as practicable after the review, to determine the allocation to the different political groups into which the members of the authority are divided of all the seats which fall to be filled by appointments made from time to time by that authority or committee.

(4) Subject to subsection (6) below, it shall be the duty of a relevant authority or committee of a relevant authority—

- (a) in performing their duty under subsection (3) above; and
- (b) in exercising their power, at times not mentioned in subsection (3) above, to determine the allocation to different political groups of seats on a body to which this section applies,

to make only such determinations as give effect, so far as reasonably practicable, to the principles specified in subsection (5) below.

(5) The principles mentioned in subsection (4) above, in relation to the seats on any body which fall to be filled by appointments made by any relevant authority or committee of a relevant authority, are—

- (a) that not all the seats on the body are allocated to the same political group;
- (b) that the majority of the seats on the body is allocated to a particular political group if the number of persons belonging to that group is a majority of the authority's membership;
- (c) subject to paragraphs (a) and (b) above, that the number of seats on the ordinary committees of a relevant authority which are allocated to each political group bears the same proportion to the total of all the seats on the ordinary committees of that authority as is borne by the number of members of that group to the membership of the authority; and
- (d) subject to paragraphs (a) to (c) above, that the number of the seats on the body which are allocated to each political group bears the same proportion to the number of all the seats on that body as is borne by the number of members of that group to the membership of the authority.

(6) Where any relevant authority or committee of a relevant authority are required, in determining the allocation to different political groups of seats on a body to which this section applies, to give effect to the principles specified in subsection (5) above—

- (a) any seats which, in accordance—
  - (i) with provision made by virtue of subsection (5) of section 13 above;
  - or
  - (ii) with subsection (6) of section 14 above,

are to be or may be filled by the appointment of persons who are not members of the authority shall be taken into account for the purpose of determining how many seats constitute a majority of the seats on a body mentioned in either of those subsections; but

- (b) that authority or committee shall, in making that determination, disregard for all other purposes any seats which, in accordance with any such provision, the said subsection (6) or otherwise, are to be or may be so filled;

and for the purposes of this subsection a seat on an advisory committee of a relevant authority or on a sub-committee appointed by such an advisory committee shall not be treated as one which may be so filled unless the authority have determined that it must be so filled.

(7) Schedule 1 to this Act shall have effect for determining the bodies to which this section applies and for the construction of this section and sections 16 and 17 below.

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

- C36** Ss. 15-17 applied (with modifications) by S.I. 1990/1553, **regs. 21, 22**
- C37** Ss. 15, 16 modified by S.I. 1990/1553, **reg. 16(1)(2)**
- C38** S. 15 excluded (3.4.1995) by 1994 c. 19, **ss. 30(11), 31(9)** (with ss. 54(7), 55(7), Sch. 17 paras. 22(1), 23(2)); S.I. 1995/852, **art. 5**
- S. 15 applied (with modifications) (8.5.2000) by 1999 c. 29, **s. 57(1)** (with Sch. 12 para. 9(1)); S.I. 2000/801, **art. 2(2)(b), Sch. Pt. 2**
- S. 15 extended (E.W.) (26.11.2000 for E. and 28.7.2001 for W.) by 2000 c. 22 ss. 21(11)(b), 108(4); S.I. 2000/2849, **art. 2(a)**
- S. 15 excluded (E.W.) (19.12.2000 for E. and police authorities in Wales otherwise 28.7.2001) by 2000 c. 22, **ss. 53(10), 108(4); S.I. 2000/3335, art. 2**
- S. 15 applied (E.) (2.4.2001) by S.I. 2001/1299, **reg. 6(10)(b)**
- S. 15 excluded (W.) (28.7.2001) by S.I. 2001/2283, **reg. 12**
- S. 15 applied (W.) (28.7.2001) by S.I. 2001/2284, **reg. 5(1)(b)**
- C39** S. 15(2)(3)(5) modified by S.I. 1990/1553, **reg. 23** (as added by S.I. 1991/1398, **reg. 8**)

#### **Marginal Citations**

- M58** 1972 c. 70.  
**M59** 1973 c. 65.

## **16 Duty to give effect to allocations.**

- (1) Where any relevant authority or any committee of a relevant authority have determined the allocation to different political groups of the seats on a body to which section 15 above applies, it shall be the duty of that authority or committee so to exercise their power to make appointments to that body as to give effect—
- (a) as soon as practicable after the determination; and
  - (b) if a vacancy subsequently occurs on that body, as soon as practicable after the occurrence of the vacancy,
- to such wishes about who is to be appointed to the seats on that body which are allocated to a particular political group as are expressed by that group.
- (2) Where—
- (a) any person has been appointed, otherwise than for a fixed term, to a body to which section 15 above applies; and
  - (b) that appointment was made, in pursuance of subsection (1) above, in accordance with the wishes of a political group,
- then, so long as that person's seat continues to be allocated to that group, the authority or committee which made the appointment shall act in accordance with the wishes of that group in determining whether and when to terminate the appointment.
- (3) The proceedings of a body to which section 15 above applies shall not be invalidated by any defect by virtue of this section or that section in the appointment of any person to that body.
- (4) This section applies in relation to an allocation of seats to different political groups whether or not that allocation is made in pursuance of any duty under section 15 above.



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

- C40** Ss. 15-17 applied (with modifications) by S.I. 1990/1553, **regs. 21, 22**
- C41** Ss. 15, 16 modified by S.I. 1990/1553, **reg. 16(1)(2)**
- C42** S. 16 applied (with modifications) (8.5.2000) by 1999 c. 29, **s. 57(1)** (with **Sch. 12 para. 9(1)**); S.I. 2000/801, **art. 2(2)(b)**, **Sch. Pt. 2**

**17 Exceptions to and extensions of political balance requirements.**

- (1) Subject to subsection (2) below, sections 15 and 16 above shall not apply in relation to appointments by a relevant authority or committee of a relevant authority to any body in so far as different provision is made by arrangements approved by the authority or committee—
- (a) in such manner as may be prescribed by regulations made by the Secretary of State; and
- (b) without any member of the authority or committee voting against them.
- (2) Arrangements approved under subsection (1) above in relation to any body shall not affect any duty imposed by virtue of section 15(1)(c), (d) or (e) or (2) above on a relevant authority or committee to review the representation of different political groups on that body; and, accordingly, such arrangements shall cease to have effect when any such duty arises.
- (3) The Secretary of State may, for the purpose of securing what appears to him to be the appropriate representation of different political groups on any sub-committee falling within subsection (4) below, by regulations make such provision as he thinks fit.
- (4) The sub-committees that fall within this subsection are those to which appointments may be made by bodies to which section 15 above applies but which are not themselves such bodies.
- (5) Without prejudice to the generality of subsection (3) above, regulations under that subsection may contain provision applying, with or without modifications, any provision made by or under section 15 or 16 above, subsections (1) and (2) above or Schedule 1 to this Act.

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

- C43** Ss. 15-17 applied (with modifications) by S.I. 1990/1553, **regs. 21, 22**
- C44** S. 17 applied (with modifications) (8.5.2000) by 1999 c. 29, **s. 57(1)** (with **Sch. 12 para. 9(1)**); S.I. 2000/801, **art. 2(2)(b)**, **Sch. Pt. 2**

*Allowances*

**18 Schemes for basic, attendance and special responsibility allowances for local authority members.**

- (1) [<sup>F74</sup>Subject to subsection (1A),] the Secretary of State may by regulations authorise or require any such relevant authority as may be specified or described in the regulations to make a scheme providing for the payment of—
- (a) a basic allowance for every member of the authority who is a councillor;

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- (b) an attendance allowance in relation to the carrying out by any such member of such duties as may be specified in or determined under the regulations; and
  - (c) a special responsibility allowance for any such member who has such special responsibilities in relation to the authority as may be so specified or determined.
- [<sup>F75</sup>(1A) In relation to a district council, county council, county borough council or London borough council, subsection (1) above shall have effect with the omission of paragraph (b).]
- (2) Regulations under this section may also authorise or require a scheme made by a relevant authority under the regulations to include provision for the payment to appointed members of allowances in respect of such losses of earnings and expenses as—
- (a) are necessarily sustained or incurred in the carrying out, in connection with their membership of the authority or any committee or sub-committee of the authority, of duties specified in or determined under the regulations; and
  - (b) are not of a description in respect of which provision is made for an allowance under any of sections 174 to 176 of the Local Government Act 1972 or sections 46 to 48 of the Local Government (Scotland) Act 1973.
- [<sup>F76</sup>(2A) Regulations under this section may authorise or require a scheme made by a district council, county council, county borough council or London borough council to include provision for the payment to members of the council of allowances in respect of such expenses of arranging for the care of children or dependants as are necessarily incurred in the carrying out of their duties as members.]
- (3) Without prejudice to the generality of the powers conferred by subsections (1) [<sup>F77</sup>to (2A)] above, regulations under this section may contain such provision as the Secretary of State considers appropriate for requiring a scheme made by a relevant authority under the regulations—
- (a) to make it a condition of any payment by way of allowance that, in the financial year to which the payment would relate, the aggregate amount which the authority has paid out or is already liable to pay out under the scheme does not exceed such maximum amount as may be specified in or determined under the regulations;
  - (b) to make provision for different maximum amounts to be applicable, for the purposes of any such condition, in relation to different allowances or in relation to different members or members of different groups;
  - (c) to make provision in relation to claims which cannot be paid by virtue of any such condition and provision for the payment to members of the authority who are councillors of an amount by way of supplement to the basic allowance where, in any financial year, the aggregate paid out or owing under the scheme is less than an amount specified in or determined under the regulations;
  - (d) to provide that the amount authorised by virtue of subsection (2) above to be paid by way of allowance in any case shall not exceed such amount as may be so specified or determined;
  - (e) to contain such provision as may be so specified or determined with respect to the general administration of the scheme, with respect to the manner in which, time within which and forms on which claims for any allowance are to be made and with respect to the information to be provided in support of any such claim;

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- (f) to contain such provision as may be so specified or determined for avoiding the duplication of payments or of allowances, for determining the bodies by which payments of allowances are to be made and for the apportionment of payments between different bodies.
- [<sup>F78</sup>(3A) Regulations under this section may make provision for or in connection with—
- (a) enabling district councils, county councils, county borough councils or London borough councils to determine which members of the council are to be entitled to pensions, allowances or gratuities,
  - (b) treating the basic allowance or the special responsibility allowance as amounts in respect of which such pensions, allowances or gratuities are payable.
- <sup>F78</sup>(3B) Regulations under this section may make provision for or in connection with requiring a district council, county council, county borough council or London borough council to establish and maintain a panel which is to have such functions as may be specified in the regulations in relation to allowances, or pensions, allowances or gratuities, payable to members of the council.
- <sup>F78</sup>(3C) Regulations under this section may make provision for or in connection with enabling a panel established by a body specified in the regulations to exercise such functions as may be specified in the regulations in relation to allowances, or pensions, allowances or gratuities, payable to members of such district councils, county councils or London borough councils in England as may be specified in the regulations.
- <sup>F78</sup>(3D) Regulations under this section may make provision for or in connection with the establishment by the National Assembly for Wales on a permanent or temporary basis of a panel which is to have such functions as may be specified in the regulations in relation to allowances, or pensions, allowances or gratuities, payable to members of county councils and county borough councils in Wales.
- <sup>F78</sup>(3E) Regulations under subsection (3B) above may include provision—
- (a) with respect to the number of persons who may or must be appointed to the panel of a council,
  - (b) with respect to the persons who may or must be appointed to the panel of a council,
  - (c) for or in connection with the appointment by councils of joint panels.
- <sup>F78</sup>(3F) Regulations under subsection (3C) may include provision—
- (a) with respect to the number of persons who may or must be appointed to a panel mentioned in that subsection,
  - (b) with respect to the persons who may or must be appointed to such a panel.
- <sup>F78</sup>(3G) Regulations under subsection (3B), (3C) or (3D) may include provision—
- (a) for or in connection with enabling a panel mentioned in that subsection to make recommendations to a council on the level of allowances payable to members of the council,
  - (b) for or in connection with enabling such a panel to make recommendations to a council as to which members of the council are to be entitled to pensions, allowances or gratuities,
  - (c) which permits different recommendations to be made in relation to different councils or descriptions of council.]
- (4) Regulations under this section may—

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- (a) prohibit the payment, otherwise than in accordance with sections 174 to 176 of the Local Government Act 1972 or sections 46 to 48 of the Local Government (Scotland) Act 1973 or in such other cases as may be specified in the regulations, of any allowance to a member of a relevant authority who is a councillor or to any appointed member of a relevant authority;
  - (b) impose requirements on a relevant authority with respect to the publication, in the minutes of that authority or otherwise, of the details of amounts paid in pursuance of a scheme made under the regulations;
  - [<sup>F79</sup>(ba) make provision with respect to the amendment, revocation or replacement of a scheme made by a relevant authority under the regulations; and]
  - (c) contain such incidental provision and such supplemental, consequential and transitional provision in connection with the other provisions of the regulations as the Secretary of State considers appropriate.
- (5) In this section “relevant authority” means—
- (a) a local authority of any of the descriptions specified in any of the paragraphs of section 21(1) below, other than [<sup>F80</sup>paragraphs (d), (g) and (j)], or in section 21(2) below;
  - (b) any body on which a body which is a relevant authority by virtue of paragraph (a) above is represented and which is designated as a relevant authority for the purposes of this section by regulations made by the Secretary of State; or
  - (c) any appeal committee so designated which is constituted in accordance with [<sup>F81</sup>paragraph 2 or 3 of Schedule 33 to the Education Act 1996];
- and references in this section to an appointed member, in relation to a relevant authority, are references to any person who is a member of the authority without being a councillor or who is a member of one or more of the authority’s committees or sub-committees without being a member of the authority.
- [<sup>F82</sup>(5A) In making or operating any scheme authorised or required by regulations under this section, a district council, county council, county borough council or London borough council shall have regard to any guidance for the time being issued by the Secretary of State.]
- (6) In this section any reference to a councillor includes a reference to a member of the authority concerned who, in accordance with regulations under this section, is to be treated as if he were a councillor.

#### Textual Amendments

- F74** Words in s. 18(1) inserted (E.W.) (28.7.2001) by 2000 c. 22, ss. 99(3)(4), 108(4)
- F75** S. 18(1A) inserted (E.W.) (28.7.2001) by 2000 c. 22, ss. 99(3)(4), 108(4)
- F76** S. 18(2A) inserted (E.W.) (19.2.2001 for E. and 28.7.2001 for W.) by 2000 c. 22, ss. 99(3)(5), 108(4); S.I. 2001/415, art. 2(b)
- F77** S. 18(3): words “to 2A” substituted for “and (2)” (E.W.) (19.2.2001 for E. and 28.7.2001 for W.) by 2000 c. 22, ss. 99(3)(6), 108(4); S.I. 2001/415, art. 2(b)
- F78** S. 18(3A)-(3G) inserted (E.W.) (19.2.2001 for E. and 28.7.2001 for W.) by 2000 c. 22, ss. 99(3)(7), 108(4); S.I. 2001/415, art. 2(b)
- F79** S. 18: subsection (4)(ba) substituted for the word “and” in subsection (4)(b) (E.W.) (19.2.2001 for E. and 28.7.2001 for W.) by 2000 c. 22, ss. 99(3)(8), 108(4); S.I. 2001/415, art. 2(b)
- F80** Words in s. 18(5)(a) substituted (1.10.1994 for specified purposes otherwise 1.4.1995) by 1994 c. 29, s. 43, Sch. 4 Pt. I para. 37; S.I. 1994/2025, art. 6; S.I. 1994/3262, art. 4, Sch. (subject to art. 5)

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- F81** Words in s. 18(5)(c) substituted (1.11.1996) by 1996 c. 56, ss. 582(1), 583(2), **Sch. 37 Pt. I para. 97** (with ss. 1(4), 561, 562, **Sch. 39** paras. 30, 39)
- F82** S. 18(5A) inserted (E.W.) (19.2.2001 for E. and 28.7.2001 for W.) by 2000 c. 22, **ss. 99(3)(9)**, 108(4); S.I. 2001/415, **art. 2(b)**

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

- C45** S. 18 applied (with modifications) (S.) (*temp.* 6.4.1995 to 1.4.1996) by S.I. 1995/789, **art. 2**, **Sch.** entry 11
- S. 18 extended (E.W.) (19.9.1995) by 1995 c. 25, ss. 63(5), 125(2), **Sch. 7 para. 11(1)** (with ss. 7(6), 115, 117, **Sch. 8** para. 7)
- S. 18 modified (E.W.) (19.9.1995) by 1995 c. 25, ss. 63(5), 125(2), **Sch. 7 para. 11(2)** (with ss. 7(6), 115, 117, **Sch. 8** para. 7)
- C46** S. 18(1)(3)(4)(5) extended (E.) (6.5.2002) by The Local Authorities (Elected Mayor and Mayor's Assistant) (England) Regulations 2002 (S.I. 2002/975), regs. 1(2), **2(b)**
- C47** S. 18(1)(b) applied (with modifications) (8.1.1996) by 1995 c. x, ss. 1(3), 44, **Sch. Pt. I**
- C48** S. 18(2)(b) restricted (E.) (1.5.2003) by The Local Authorities (Members Allowances) (England) Regulations 2003 (S.I. 2003/1021), regs. 1(1), **34(1)(c)** (with reg. 34(2))
- C49** S. 18(1)(3)(4)(5) extended (E.) (6.5.2002) by The Local Authorities (Elected Mayor and Mayor's Assistant) (England) Regulations 2002 (S.I. 2002/975), regs. 1(2), **2(b)**
- C50** S. 18(1)(3)(4)(5) extended (E.) (6.5.2002) by The Local Authorities (Elected Mayor and Mayor's Assistant) (England) Regulations 2002 (S.I. 2002/975), regs. 1(2), **2(b)**
- C51** S. 18(1)(3)(4)(5) extended (E.) (6.5.2002) by The Local Authorities (Elected Mayor and Mayor's Assistant) (England) Regulations 2002 (S.I. 2002/975), regs. 1(2), **2(b)**

*Members' interests*

**19 Members' interests.**

- [<sup>F83</sup>(1) The Secretary of State may by regulations require each member of a local authority—
- (a) to give a general notice to the proper officer of the authority setting out such information about the member's direct and indirect pecuniary interests as may be prescribed by the regulations, or stating that he has no such interests; and
  - (b) from time to time to give to that officer such further notices as may be so prescribed for the purpose of enabling that officer to keep the information provided under the regulations up to date.
- (2) Any member of a local authority who—
- (a) without reasonable excuse fails to comply with the requirements of any regulations under this section; or
  - (b) in giving a notice in compliance with any such requirement, provides information which he knows to be false or misleading in a material particular or recklessly provides information which is false or misleading in a material particular,
- shall be guilty of an offence and liable, on summary conviction, to a fine not exceeding level 4 on the standard scale.
- (3) Proceedings for an offence under subsection (2) above shall not be instituted in England and Wales except by or with the consent of the Director of Public Prosecutions.
- (4) Neither section 96 of the <sup>M60</sup>Local Government Act 1972 (general notice of pecuniary interests) nor section 40 of the <sup>M61</sup>Local Government (Scotland) Act 1973

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- (corresponding provision for Scotland) shall apply in relation to any notice given in pursuance of any regulations under this section; but such regulations may provide—
- (a) that the giving of a notice in pursuance of any such regulations shall be deemed to be sufficient disclosure for the purposes of section 94 of the said Act of 1972 (disability of members of authorities for voting on account of interest in contracts etc.) or for the purposes of section 38 of the said Act of 1973; and
  - (b) that the proper officer of a local authority is to maintain such records of the information contained in notices given to him as may be prescribed by the regulations and is to keep those records open to inspection by members of the public.
- (5) A local authority shall not be entitled (whether by means of making it a condition of any appointment or by any other means whatever) to impose any obligations on their members to disclose any interests other than those that they are required to disclose by virtue of section 94 of the Local Government Act 1972, section 38 of the Local Government (Scotland) Act 1973 or any regulations under this section.
- (6) Regulations under this section may contain such incidental provision and such supplemental, consequential and transitional provision in connection with their other provisions as the Secretary of State considers appropriate.
- (7) References in this section to the indirect pecuniary interests of a member of a local authority shall include references to any such interests as, by virtue of any connection between that member or his spouse and any other person, would fall to be disclosed—
- (a) in the case of a local authority in England and Wales, under section 94 of the Local Government Act 1972; or
  - (b) in the case of a local authority in Scotland, under section 38 of the Local Government (Scotland) Act 1973,
- if the authority were proposing to enter into a contract with that other person.]

#### Textual Amendments

- F83** S. 19 repealed (S.) (1.5.2003) by [Ethical Standards in Public Life etc. \(Scotland\) Act 2000 \(asp 7\)](#), s. 37(2), [sch. 4](#) (with s. 31); S.S.I. 2003/74, art. 2(2)(e)

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

- C52** S. 19 applied (S.) (*temp.* 6.4.1995 to 1.4.1996) by [S.I. 1995/789](#), art. 2, [Sch.](#) entry 11  
 S. 19 extended (E.W.) (19.9.1995) by [1995 c. 25](#), ss. 63(5), 125(2), [Sch. 7 para. 10\(2\)](#) (with ss. 7(6), 115, 117, [Sch. 8 para. 7](#))  
 S. 19 applied (with modifications) (8.5.2000) by [1999 c. 29](#), s. 154(4), [Sch. 10 para. 13\(12\)](#) (with [Sch. 12 para. 9\(1\)](#)); [S.I. 2000/801](#), art. 2(2)(b), [Sch. Pt. 2](#)  
 S. 19 excluded (E.) (27.11.2001, *temp.* until 27.11.2002) by [S.I. 2001/3577](#), [art. 3\(1\)\(b\)](#)  
 S. 19 excluded (E.) (27.11.2001, *temp.* until 27.7.2002) by [S.I. 2001/3376](#), [art. 3\(1\)\(c\)](#)
- C53** S. 19 applied (22.7.2004) by [The Chilterns Area of Outstanding Natural Beauty \(Establishment of Conservation Board\) Order 2004 \(S.I. 2004/1778\)](#), arts. 1, [14\(2\)\(c\)](#)
- C54** S. 19 applied (*temp.*) (22.7.2004) by [The Cotswolds Area of Outstanding Natural Beauty \(Establishment of Conservation Board\) Order 2004 \(S.I. 2004/1777\)](#), arts. 1, [14\(2\)\(c\)](#)

#### Commencement Information

- I1** S.19 wholly in force: s. 19 not in force at Royal Assent, see s. 195(2); s. 19 in force for certain purposes at 16.1.1990 by [S.I. 1989/2445](#), [art. 4](#) and in force at 8.5.1992 so far as not already in force by [S.I. 1992/760](#), [art. 2](#)

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#### **Marginal Citations**

**M60** 1972 c. 70.

**M61** 1973 c.65.

### *Duty to adopt certain procedural standing orders*

#### **20 Duty to adopt certain procedural standing orders.**

- (1) The Secretary of State may by regulations require relevant authorities, subject to such variations as may be authorised by the regulations—
  - (a) to incorporate such provision as may be prescribed by the regulations in standing orders for regulating their proceedings and business; and
  - (b) to make or refrain from making such other modifications of any such standing orders as may be so prescribed.
- (2) Without prejudice to the generality of subsection (1) above, regulations under this section may require such standing orders as are mentioned in that subsection to contain provision which, notwithstanding any enactment or the decision of any relevant authority or committee or sub-committee of a relevant authority, authorises persons who are members of such an authority, committee or sub-committee—
  - (a) to requisition meetings of the authority or of any of their committees or sub-committees;
  - (b) to require a decision of a committee or sub-committee of the authority to be referred to and reviewed by the authority themselves or by a committee of the authority;
  - (c) to require that a vote with respect to a matter falling to be decided by the authority or by any of their committees or sub-committees is to be taken in a particular manner.
- (3) Regulations under this section may contain such incidental provision and such supplemental, consequential and transitional provision in connection with their other provisions as the Secretary of State considers appropriate.
- (4) In this section “relevant authority”—
  - (a) in relation to England and Wales, means a local authority of any of the descriptions specified in paragraphs (a) to (j) of section 21(1) below or any parish or community council; and
  - (b) in relation to Scotland, means a local authority.

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

- C55** S. 20 applied (S.) (*temp.* 6.4.1995 to 1.4.1996) by S.I. 1995/789, art. 2, **Sch.** entry 11  
S. 20 extended (E.W.) (19.9.1995) by 1995 c. 25, ss. 63(5), 125(2), **Sch. 7 para. 12(3)** (with ss. 7(6), 115, 117, **Sch. 8 para. 7**)

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### *Interpretation of Part I*

## **21 Interpretation of Part I.**

(1) Any reference in this Part to a local authority is, in relation to England and Wales, a reference to a body of one of the following descriptions—

- (a) a county council;
- [<sup>F84</sup>(aa) a county borough council;]
- (b) a district council;
- (c) a London borough council;
- (d) the Common Council of the City of London in its capacity as a local authority, police authority or port health authority;
- (e) the Council of the Isles of Scilly;
- (f) a fire authority constituted by a combination scheme under the <sup>M62</sup>Fire Services Act 1947;
- [<sup>F85</sup>(g) a police authority established under [<sup>F86</sup>section 3 of the Police Act 1996][<sup>F87</sup>or the Metropolitan Police Authority];]
- (h) an authority established under section 10 of the <sup>M63</sup>Local Government Act 1985 (waste disposal authorities);
- (i) a joint authority established by Part IV of that Act ([<sup>F88</sup>police,] fire services, civil defence and transport) [<sup>F89</sup>or the London Fire and Emergency Planning Authority];
- (j) any body established pursuant to an order under section 67 of that Act (successors to residuary bodies);
- (k) the Broads Authority;
- (l) any joint board the constituent members of which consist of any of the bodies specified above; [<sup>F90</sup> . . .]
- <sup>F91</sup>(m) . . . . . [<sup>F92</sup>and
- <sup>F92</sup>(n) a joint planning board constituted for an area in Wales outside a National Park by an order under section 2(1B) of the <sup>M64</sup>Town and Country Planning Act 1990.]

(2) Any reference in this Part to a local authority is, in relation to Scotland, a reference to a [<sup>F93</sup>council constituted under section 2 of the Local Government etc. (Scotland) Act 1994] or a joint board within the meaning of section 235(1) of the <sup>M65</sup>Local Government (Scotland) Act 1973.

(3) In this Part—

“contravention” includes a failure to comply;

[<sup>F94</sup>“council manager”, “executive”, “executive arrangements” and “mayor and council manager executive” have the same meaning as in Part II of the Local Government Act 2000;]

“modifications” includes additions, alterations and omissions;

“proper officer”—

- (G) in relation to a local authority in England and Wales, has the same meaning as in the Local Government Act 1972; and
- (G) in relation to a local authority in Scotland, has the same meaning as in the Local Government (Scotland) Act 1973; and



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“subordinate legislation” has the same meaning as in the <sup>M66</sup>Interpretation Act 1978.

- (4) References in this Part to an officer of a local authority or to a paid office under a local authority do not include references to, or to the office of, the chairman or vice-chairman of the authority (whether referred to as such, as mayor, Lord Mayor, deputy mayor, as Lord Provost or otherwise [<sup>F95</sup> or a member of any executive of the authority (other than a council manager)]).

#### Textual Amendments

- F84** S. 21(1)(aa) inserted (7.1.1997) by S.I. 1996/3071, art. 2, **Sch. para. 3(3)**
- F85** S. 21(1)(g) substituted (1.10.1994 for specified purposes otherwise 1.4.1995) by 1994 c. 29, s. 43, **Sch. 4 Pt. I para. 38**; S.I. 1994/2025, art. 6; S.I. 1994/3262, art. 4, **Sch.** (subject to art. 5)
- F86** Words in s. 21(1)(g) substituted (22.8.1996) by 1996 c. 16, ss. 103(1), 104(1), **Sch. 7 Pt. I para. 1(1)(2)(zd)**
- F87** Words in s. 21(1)(g) substituted (1.4.2002) by 2001 c. 16, s. 128(1), Sch. 6 Pt. II para. 50; S.I. 2002/344, art. 3 (with transitional provisions in art. 4)
- F88** Word in s. 21(1)(i) repealed (1.4.1995 (E.W.) otherwise (*prosp.*)) by 1994 c. 29, s. 93, **Sch. 9 Pt. I**; S.I. 1994/3262, art. 4, **Sch.** (subject to art. 5)
- F89** Words in s. 21(1)(i) inserted (3.7.2000) by 1999 c. 29, s. 328(8), **Sch. 29 para. 55** (with Sch. 12 para. 9(1)); S.I. 2000/1094, art. 4(a)(h)
- F90** Word in s. 21(1)(l) omitted (23.11.1995) by virtue of 1995 c. 25, s. 78, **Sch. 10 para. 31(1)** (with ss. 7(6), 115, 117, Sch. 8 para. 7); S.I. 1995/2950, art. 2(1)
- F91** S. 21(1)(m) repealed (1.4.1997) by 1995 c. 25, s. 120(1), **Sch. 24** (with ss. 7(6), 115, 117); S.I. 1996/2560, art. 2, **Sch.**
- F92** S. 21(1)(n) and the preceding “and” added (23.11.1995) by 1995 c. 25, s. 78, **Sch. 10 para. 31(1)** (with ss. 7(6), 115, 117, Sch. 8 para. 7); S.I. 1995/2950, art. 2(1)
- F93** Words in s. 21(2) substituted (S.) (1.4.1996) by 1994 c. 39, s. 180(1), **Sch. 13 para. 161(1)(8)**; S.I. 1996/323, art. 4(1)(c)
- F94** S. 21(3): definition inserted (E.) (11.7.2001) and (W.) (1.4.2002) by S.I. 2001/2237, arts. 1(2), 25(a); S.I. 2002/808, arts. 1(2), **24(a)**
- F95** Words in s. 21(4) inserted (E.) (11.7.2001) and (W.) (1.4.2002) by S.I. 2001/2237, arts. 1(2), 25(b); S.I. 2002/808, arts. 1(2), **24(b)**

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

- C56** S. 21 applied (S.) (temp.) (6.4.1995 to 1.4.1996) by S.I. 1995/789, art. 2, **Sch. entry 11**

#### Marginal Citations

- M62** 1947c. 41.  
**M63** 1985 c. 51.  
**M64** 1990 c. 8.  
**M65** 1973 c. 65.  
**M66** 1978 c. 30.

**Status:**

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