



# Elections Act 2022

## 2022 CHAPTER 37

PROSPECTIVE

### PART 5

#### DISQUALIFICATION OF OFFENDERS FOR HOLDING ELECTIVE OFFICE ETC

#### 30 Disqualification orders

- (1) This section applies where—
  - (a) a person (“the offender”) is convicted of a [Schedule 9](#) offence,
  - (b) the offender was aged 18 or over when the offence was committed, and
  - (c) the court is satisfied beyond reasonable doubt that the offence is aggravated by hostility related to persons falling within any of sections 32 to 34.
- (2) The court must, when dealing with the offender for the offence, also make an order (a “disqualification order”) that the offender is disqualified, for the period of 5 years beginning with the date on which the order is made—
  - (a) for being nominated for election to a relevant elective office, and
  - (b) for being elected to or holding a relevant elective office.
- (3) Subsection (2) does not apply where the court considers that there are particular circumstances relating to the offence or to the offender which would make it unjust in all the circumstances to make the order; and in such a case the court must state in open court the reasons for not making the order.
- (4) For the purposes of this section an offence is aggravated by hostility related to persons falling within any of sections 32 to 34 if—
  - (a) at the time of committing the offence, or immediately before or after doing so, the offender demonstrated towards the victim of the offence hostility based on the victim being (or being presumed to be) a person falling within any of sections 32 to 34, or

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- (b) the offence was motivated (wholly or partly) by hostility towards persons falling within any of those sections in their capacity as such.
- (5) For the purposes of subsection (4) it is immaterial whether or not the offender's hostility is also based, to any extent, on any other factor not mentioned in that subsection.
- (6) For the purpose of deciding whether to make a disqualification order the court may consider evidence led by the prosecution and the defence.
- (7) It is immaterial whether evidence led in pursuance of subsection (6) would have been admissible in the proceedings in which the offender was convicted.
- (8) Where a [Schedule 9](#) offence is found to have been committed—
  - (a) over a period of 2 or more days, or
  - (b) at some time during a period of 2 or more days,
 it is to be taken for the purposes of subsection (1)(b) to have been committed on the last of those days.
- (9) In this section—
  - “presumed” means presumed by the offender;
  - “Schedule 9 offence” means an offence listed in [Schedule 9](#) (and any reference in that Schedule to an offence includes a reference to that offence committed by aiding, abetting, counselling or procuring the commission of that offence).

#### Commencement Information

**II** S. 30 not in force at Royal Assent, see [s. 67\(1\)](#)

### 31 Vacation of office etc

- (1) This section applies where a court makes a disqualification order in respect of a person who holds a relevant elective office.
- (2) The relevant elective office is, subject to subsection (3), vacated at the appropriate time, namely—
  - (a) the end of the period of 3 months beginning with the order date, or
  - (b) if earlier, the end of the period allowed for making an appeal against the conviction or the making of the order.
- (3) Where, before the appropriate time mentioned in subsection (2), the person appeals against the conviction or the making of the order, the relevant elective office is vacated at the end of the period of 3 months beginning with the order date unless—
  - (a) the appeal is dismissed or abandoned at any earlier time (in which case the relevant elective office is vacated at that time), or
  - (b) at any time within that period of 3 months the appeal against the conviction or the making of the order is upheld (in which case the relevant elective office is not required to be vacated).
- (4) The person is suspended from performing any of the functions of the relevant elective office during the period beginning with the order date and ending with—
  - (a) the date on which the office is vacated in accordance with this section, or

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- (b) where subsection (3)(b) applies, the date on which the appeal against the conviction or the making of the order is upheld.
- (5) Where—
  - (a) a person ceases to hold a relevant elective office in accordance with this section, but
  - (b) at any later time the person successfully appeals against the conviction or the making of the order,the determination of the appeal does not entitle the person to resume that office.
- (6) In this section “order date” means the date on which the disqualification order is made by the court.

#### Commencement Information

**12** S. 31 not in force at Royal Assent, see s. 67(1)

## 32 Candidates etc

- (1) A person falls within this section if the person is—
  - (a) a candidate or future candidate at an election for a relevant elective office or a relevant Scottish elective office, or
  - (b) a substitute or nominee in relation to the seat of a member of the Northern Ireland Assembly or of a district council in Northern Ireland.
- (2) The reference in subsection (1)(a) to a person who is a candidate at an election includes a person who is included in a list of candidates submitted in connection with the election.
- (3) For the purposes of subsection (1)(a) a person is a future candidate at an election for a relevant elective office or a relevant Scottish elective office if—
  - (a) the person has been declared, whether by the person or by others, to be a candidate at the election (and the declaration has not been withdrawn),
  - (b) the election is the next scheduled election for the office, and
  - (c) the notice of the election has not been published or, in the case of an election for the office of member of the House of Commons, the writ for the election has not been issued.
- (4) For the purposes of subsection (1)(b) a person is a substitute—
  - (a) in relation to the seat of a member of the Northern Ireland Assembly, if the person—
    - (i) is included in a notice given by the member under article 6A of the 2001 Order (vacancies arising during an Assembly term: independent members) or, where the member has given more than one notice under that article, in the last such notice, or
    - (ii) is being considered by the member for inclusion in such a notice;
  - (b) in relation to the seat of a member of a district council in Northern Ireland, if the person—
    - (i) is included in a list of substitutes given by the member under section 11C of the 1962 Act (substitute lists: independent members)

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or, where the member has given more than one list of substitutes under that section, in the latest such list, or

(ii) is being considered by the member for inclusion in such a list.

(5) For the purposes of subsection (1)(b) a person is a nominee—

(a) in relation to the seat of a member of the Northern Ireland Assembly, if the person—

(i) has under article 6B of the 2001 Order (vacancies arising during an Assembly term: members of registered parties) been nominated by the nominating officer of a registered party to fill a vacancy in the seat, or

(ii) is being considered by the nominating officer of a registered party for nomination under that article;

(b) in relation to the seat of a member of a district council in Northern Ireland, if the person—

(i) has under section 11E or 11F of the 1962 Act (members for registered parties: filling casual vacancies) been nominated by the nominated officer of a registered party to fill a vacancy in the seat, or

(ii) is being considered by the nominating officer of a registered party for nomination under either of those sections.

(6) For the purposes of subsection (5)(b) as it applies in relation to section 11F of the 1962 Act, references to the nominated officer of a registered party are to be read as references to the nominating officers of each of the registered parties concerned.

(7) In this section—

“the 1962 Act” means the Electoral Law Act (Northern Ireland) 1962;

“the 2001 Order” means the Northern Ireland Assembly (Elections) Order 2001 (S.I. 2001/2599);

“nominating officer”, in relation to a registered party, means the person registered as the party’s nominating officer under PPERA in the Northern Ireland register (within the meaning of PPERA);

“registered party” means a party registered under PPERA in that register.

#### Commencement Information

**I3** S. 32 not in force at Royal Assent, see s. 67(1)

### 33 Holders of relevant elective offices

(1) A person falls within this section if the person holds a relevant elective office or a relevant Scottish elective office.

(2) For the purposes of subsection (1) a person is to be treated as holding a relevant elective office or a relevant Scottish elective office during any period when—

(a) the person has been elected as, or declared to be returned as, the holder of the office, but

(b) their term of office has not yet begun.

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## Commencement Information

**I4** S. 33 not in force at Royal Assent, see [s. 67\(1\)](#)

## 34 Campaigners

- (1) A person falls within this section if the person is an individual—
  - (a) who is a permitted participant in relation to a referendum to which Part 7 of PPERA applies,
  - (b) who is a recognised third party,
  - (c) who is involved in the conduct or management of a local referendum campaign,
  - (d) who is an accredited campaigner in relation to a recall petition, or
  - (e) who—
    - (i) undertakes activities for election purposes, for referendum purposes or for recall petition purposes, and
    - (ii) is employed or engaged by a person falling within subsection (5) wholly or partly for the purpose of undertaking such activities.
- (2) Activities are undertaken “for election purposes” if they are undertaken—
  - (a) for the purposes of or in connection with—
    - (i) promoting or procuring electoral success for a registered party at a relevant election, or
    - (ii) promoting or procuring the election of a candidate at a relevant election,
  - (b) for the purposes of or in connection with enhancing the standing with the electorate, in connection with future relevant elections (whether imminent or otherwise), of a registered party or a candidate at a relevant election, or
  - (c) with a view to prejudicing—
    - (i) the electoral prospects of a registered party or a candidate at a relevant election, or
    - (ii) the standing with the electorate, in connection with future relevant elections (whether imminent or otherwise), of a registered party or a candidate at a relevant election.
- (3) Activities are undertaken “for referendum purposes” if they are undertaken—
  - (a) for the purposes of or in connection with promoting or procuring a particular outcome in relation to the question asked in a relevant referendum, or
  - (b) with a view to prejudicing the prospects of another particular outcome in relation to the question asked in a relevant referendum.
- (4) Activities are undertaken “for recall petition purposes” if they are undertaken for the purposes of or in connection with promoting or procuring the success or failure of a recall petition.
- (5) The following persons fall within this subsection—
  - (a) a registered party;
  - (b) a person who falls within section 32(1)(a) (candidates etc);
  - (c) a permitted participant in relation to a referendum to which Part 7 of PPERA applies;

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- (d) a recognised third party;
- (e) a person involved in the conduct or management of a local referendum campaign;
- (f) an accredited campaigner in relation to a recall petition.

(6) In this section—

“accredited campaigner” has the same meaning as in the Recall of MPs Act 2015 (see Part 5 of Schedule 3 to that Act);

“local referendum” means a referendum under or by virtue of—

- (a) Chapter 4 of Part 1A of the Local Government Act 2000 (local authority governance: England);
- (b) Part 2 of the Local Government Act 2000 (local authority governance: Wales);
- (c) section 52ZG or 52ZN of the Local Government Finance Act 1992 (referendums in relation to council tax);
- (d) Schedule 4B or 4C to the Town and Country Planning Act 1990 (referendums on neighbourhood development plans);

“local referendum campaign” means a campaign conducted with a view to promoting or procuring a particular outcome in relation to the question to be asked in a local referendum;

“permitted participant” has the same meaning as in PPERA (see section 105 of that Act);

“recall petition” has the same meaning as in the Recall of MPs Act 2015 (see section 1 of that Act);

“recognised third party” has the meaning given in section 85(5) of PPERA;

“registered party” has the same meaning as in PPERA (see section 160 of that Act);

“relevant election” means an election for a relevant elective office or a relevant Scottish elective office;

“relevant referendum” means—

- (a) a referendum to which Part 7 of PPERA applies, or
- (b) a local referendum.

(7) In this section a reference to a individual who is “engaged” by a person falling within subsection (5) includes a reference to an individual who is engaged otherwise than for payment or promise of payment.

#### Commencement Information

**I5** S. 34 not in force at Royal Assent, see [s. 67\(1\)](#)

### **35 Election etc of a person to the House of Commons who is subject to a disqualification order**

- (1) If a person who is subject to a disqualification order is elected as a member of the House of Commons, the person’s election is void.
- (2) In section 7 of the House of Commons Disqualification Act 1975 (jurisdiction of Privy Council as to disqualification), after subsection (5) insert—

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“(6) In this section, a reference to disqualification by this Act includes a reference to disqualification by virtue of an order under section 30 of the Elections Act 2022 (disqualification of offenders for holding elective office etc).”

#### Commencement Information

**I6** S. 35 not in force at Royal Assent, see [s. 67\(1\)](#)

### 36 Power to amend [Schedule 9](#)

- (1) The Secretary of State may by regulations amend [Schedule 9](#) by—
  - (a) adding offences, or
  - (b) varying or omitting offences listed in the Schedule.
- (2) Regulations under this section are to be made by statutory instrument.
- (3) A statutory instrument containing regulations under this section may not be made unless a draft of the instrument has been laid before and approved by a resolution of each House of Parliament.

#### Commencement Information

**I7** S. 36 not in force at Royal Assent, see [s. 67\(1\)](#)

### 37 Interpretation of Part

- (1) In this Part—
  - “disqualification order” means an order made under section 30;
  - “relevant elective office” means the office of—
    - (a) member of the House of Commons;
    - (b) member of Senedd Cymru;
    - (c) member of the Northern Ireland Assembly;
    - (d) member of a local authority in England, Wales or Northern Ireland;
    - (e) elected mayor (within the meaning of Part 1A or 2 of the Local Government Act 2000);
    - (f) mayor for the area of a combined authority established under section 103 of the Local Democracy, Economic Development and Construction Act 2009;
    - (g) Mayor of London;
    - (h) member of the London Assembly;
    - (i) police and crime commissioner;
  - “relevant Scottish elective office” means the office of—
    - (a) member of the Scottish Parliament, or
    - (b) member of a council constituted under section 2 of the Local Government etc. (Scotland) Act 1994.
- (2) In the definition of “relevant elective office” in subsection (1), “local authority” means—

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- (a) in relation to England, a county council, a district council, a parish council, a London borough council or the Council of the Isles of Scilly;
- (b) in relation to Wales, a county council, a county borough council or a community council;
- (c) in relation to Northern Ireland, a district council.

**Commencement Information**

**18** S. 37 not in force at Royal Assent, see [s. 67\(1\)](#)

**38 Minor and consequential amendments**

[Schedule 10](#) contains minor and consequential amendments.

**Commencement Information**

**19** S. 38 not in force at Royal Assent, see [s. 67\(1\)](#)



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**Changes to legislation:**

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