

*Status: This version of this provision is prospective.*

*Changes to legislation: There are currently no known outstanding effects for the Elections Act 2022, Paragraph 8. (See end of Document for details)*

## SCHEDULES

PROSPECTIVE

### SCHEDULE 10

#### DISQUALIFICATION ORDERS: MINOR AND CONSEQUENTIAL AMENDMENTS

##### *Armed Forces Act 2006*

- 8 (1) The Armed Forces Act 2006 is amended as follows.
- (2) After section 236 insert—

*“Disqualification of offenders for holding elective office etc*

##### **236A Disqualification orders**

- (1) This section applies where—
- (a) a person (“the offender”) is convicted of a qualifying section 42 offence by a court,
  - (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 of the Elections Act 2022.
- (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 of the Elections Act 2022 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 those sections, 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 parties to the proceedings.
- (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 qualifying section 42 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) For the purposes of any appeal against a disqualification order—
  - (a) references in section 141 to a finding or punishment include the making of a disqualification order;
  - (b) references in section 16A of the Court Martial Appeals Act 1968 to passing a sentence include making a disqualification order.
- (10) In this section—
  - “court” means the court or officer sentencing the offender;
  - “presumed” means presumed by the offender;
  - “qualifying section 42 offence” means an offence under section 42 (criminal conduct) as respects which the corresponding offence under the law of England and Wales is an offence listed in [Schedule 9](#) to the Elections Act 2022;
  - “relevant elective office” has the same meaning as in Part 5 of the Elections Act 2022 (see section 37 of that Act).

### 236B Effect of disqualification order

References (however expressed) in any enactment to an order under section 30 of the Elections Act 2022 include references to an order under section [236A](#).”

#### Commencement Information

- II** Sch. 10 para. 8 not in force at Royal Assent, see [s. 67\(1\)](#)

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