



# Electoral Law Act (Northern Ireland) 1962

## 1962 CHAPTER 14

*Part I (ss.1#8) rep. by 1989 c. 3*

*Part II—S.9 rep. by 1968 c.20 (NI); SI 1973/2163. S.10 rep. by SLR 1980*

*Part IIA (ss.10A#10C) inserted by 1968 c.20 (NI) s.6(1), rep. by SI 1973/2163*

### PART III

#### LOCAL AUTHORITIES

#### 11 <sup>F1</sup>**Election and term of office of members of district councils.**

- (1) [<sup>F2</sup>The year 2011] and every fourth year thereafter shall be a local election year and in each local election year the election day as respects any district council shall be the day on which the poll is or would have been taken in any contested election for that council not being an election to fill a casual vacancy.

[<sup>F3</sup>(1A) The election day referred to in subsection (1) is the [<sup>F4</sup> first Thursday in May].]

- (2) The members of a district council—
- shall be elected in every local election year;
  - shall come into office on the [<sup>F5</sup> fourth day after] the election day;
  - shall retire together on the [<sup>F5</sup> fourth day after] the election day in the next succeeding local election year.
- (3) [<sup>F3</sup>If the poll at an election in any district electoral area is countermanded or abandoned by reason of a candidate's death], the provisions of subsection (2) relating to the retirement of members shall have effect as if the election had not been countermanded or the poll adjourned but had been proceeded with and completed.
- (4) A vacancy (in this Act referred to as a casual vacancy) caused in a district council—
- by the death or resignation or disqualification (whether by virtue of this Act or otherwise) of a member; or
  - by the non-acceptance of office by a person elected or declared to have been elected a member or by his office becoming vacant under section 7(2) of the

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Local Government Act (Northern Ireland) 1972 or being declared vacant under section 10 of that Act by reason of his failure to attend meetings of the council; or

- (c) by the determination by an election court that a person's election as a member was void, where no other person is declared elected in his stead;

shall, if it occurs in any local election year on or after the first day of January and before or on election day, be deemed to have been caused by the expiry of the normal term of office and accordingly shall be filled on the election day in that year and in any other case<sup>[F6]</sup> shall be filled in accordance with subsection (4A)].

<sup>[F6]</sup>(4A) A casual vacancy to which subsection (4)(c) applies shall be filled by a person elected at an election to fill the vacancy and any other casual vacancy shall be filled—

- (a) by a person chosen by the council in accordance with subsection (4B); or
- (b) if no person is chosen as mentioned in paragraph (a), by a person elected at an election to fill the vacancy.

(4B) Where a casual vacancy in a district council falls to be filled in accordance with this subsection—

- (a) a meeting of the council to choose a person to fill the vacancy shall be held not less than 14 days nor more than 42 days after the occurrence of the vacancy;
- (b) the clerk of the council shall give every member of the council not less than 7 days written notice of the meeting which notice shall state as the first business of the meeting the choice of a person to fill the vacancy;
- (c) the council may at that meeting choose to fill the vacancy<sup>[F7]</sup> any person who—]

[ is qualified to be a member of the council;]

<sup>F7</sup>(i)

[ has made, and served on the clerk of the council, a declaration in <sup>F7</sup>(ii) the form set out in Part II of Schedule 2 to the Elected Authorities (Northern Ireland) Act 1989; and]

[ <sup>F7</sup>is not objected to by any member of the council present at the <sup>F7</sup>(iii) meeting;] and

- (d) any person so chosen shall be deemed for all purposes to have been duly elected a member of the council.

(4C) Where a meeting of a district council held in accordance with subsection (4B) fails to choose a person to fill a casual vacancy, the clerk of the council shall, within 7 days of the meeting, notify the Chief Electoral Officer—

- (a) that a casual vacancy has arisen in the council and that a meeting held in accordance with subsection (4B) has failed to choose a person to fill that vacancy;
- (b) of any other matter concerning the casual vacancy which has come to the knowledge of the clerk of the council.]

<sup>[F5]</sup>(5) A casual vacancy shall be deemed to have occurred—

- (a) if it is a vacancy to which sub-section (4) ( a ) or ( b ) applies, when and so soon as the Chief Electoral Officer is satisfied that the vacancy exists; or
- (b) if it is a vacancy to which sub-section (4) ( c ) applies, on the date of the determination;

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and it shall be the duty of the clerk of a district council within 7 days of any matter concerning a casual vacancy coming to his knowledge to report it to the Chief Electoral Officer.]

- (6) A person elected to fill a casual vacancy occurring in a district council shall hold office for the remainder of the term of the member whom he has succeeded.
- (7) Nothing in this section shall affect the right under any enactment relating to local government of the chairman or vice chairman of a local authority to continue in office until his successor becomes entitled to act.]

*Subs.(8) rep. by SLR 1980*

<b>F1</b>	1972 NI 13
<b>F2</b>	Words in s. 11(1) substituted (12.2.2009) by <a href="#">Postponement of Local Elections (Northern Ireland) Order 2009 (S.I. 2009/225)</a> , arts. 1(1), 2(2) (with transitional provisions in art. 3)
<b>F3</b>	SI 1985/454
<b>F4</b>	SI 2005/862
<b>F5</b>	1992 NI 6
<b>F6</b>	1985 NI 15
<b>F7</b>	<a href="#">1989 c. 3</a>

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

- |           |                                                                                                                                                                                                             |
|-----------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>C1</b> | <a href="#">S. 11(1A)</a> excluded (12.2.2009) by <a href="#">Postponement of Local Elections (Northern Ireland) Order 2009 (S.I. 2009/225)</a> , arts. 1(1), 2(3) (with transitional provisions in art. 3) |
|-----------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|

*Ss.12, 13 rep. by SLR 1980*

## PART IV

### OFFICERS

#### [<sup>F8</sup>14 Appointment of Chief Electoral Officer.

- (1) There shall be appointed a Chief Electoral Officer for Northern Ireland (in this Act referred to as the Chief Electoral Officer) who shall carry out the functions conferred on him by or under this Act and by or under any other statutory provision for the time being in force.
- (2) The Chief Electoral Officer shall be appointed[<sup>F9</sup> in accordance with section 8 of the Northern Ireland (Miscellaneous Provisions) Act 2006]

*Subs.(3) rep. by 1975 c.25*

- (4) Without prejudice to the generality of subsection (1), the Chief Electoral Officer shall be responsible for—
  - (a) the administration and implementation of the provisions of the Electoral Law Acts (Northern Ireland) 1962 to 1971 and the Electoral Law (Northern Ireland) Order 1972 ;  
*Para. (b) rep. by 1989 c. 3*
  - (c) the conduct of all elections to the [<sup>F10</sup> Assembly] and to district councils;

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- (d) the preparation of polling station schemes, the maintenance of election equipment and generally all administrative matters preliminary to or consequent on an election;

F11 . . .

- (5) <sup>F12</sup> Any acts required or authorised to be done by or with respect to the Chief Electoral Officer may, in the event of his absence from Northern Ireland or his incapacity to act or of a vacancy, be done by or with respect to a person temporarily appointed for the purpose by the Governor... <sup>F13</sup>
- (6) There shall be paid to the Chief Electoral Officer and to a person appointed under subsection (5) such remuneration and to or in respect of the service of a person who has been a Chief Electoral Officer such pension, allowances and gratuities by way of superannuation as may be determined by [<sup>F10</sup> the Secretary of State with the consent of the Minister for the Civil Service].
- (7) The remuneration payable to a holder of the office of Chief Electoral Officer shall be abated by the amount of any pension payable to him in respect of any public office in the United Kingdom or elsewhere to which he had previously been appointed or elected; but any such abatement shall be disregarded in computing that remuneration for the purposes of any pension, allowances or gratuities by way of superannuation payable pursuant to... <sup>F13</sup> subsection (6).
- (8) Any remuneration and any pension, allowances and gratuities by way of superannuation payable under subsection (6) shall be charged on and issued out of the Consolidated Fund [<sup>F14</sup> of the United Kingdom.]]

F8 1972 NI 13

F9 Words in s. 14(2) substituted (16.10.2006) by Northern Ireland (Miscellaneous Provisions) Act 2006 (c. 33), ss. 30(1), 31(3), Sch. 4 para. 9(a); S.I. 2006/2688, art. 2(1)(2)(e)

F10 SI 1973/2163

F11 Words in s. 14(4) repealed (16.10.2006) by Northern Ireland (Miscellaneous Provisions) Act 2006 (c. 33), ss. 30(1)(2), 31(3), Sch. 4 para. 9(b), Sch. 5; S.I. 2006/2688, art. 2(1)(2)(e)

F12 App. (European Assembly), SI 1979/322

F13 SI 1973/2163

F14 SI 1973/2163

#### [<sup>F15</sup>14A Appointment of persons to assist Chief Electoral Officer.

- (1) <sup>F16</sup>The Chief Electoral Officer, with the approval of the Ministry of Finance<sup>F17</sup> as to numbers and conditions of service, may appoint such persons, in addition to the persons specified in Article 9(2) of the Electoral Law (Northern Ireland) Order 1972, to assist him as may be agreed between him and the Ministry.
- (2) Without in any way diminishing his responsibility and without prejudice to Rule 30 of Schedule 4 and [<sup>F18</sup> rule 23 of the local elections rules], the Chief Electoral Officer may delegate any of his functions to persons appointed under subsection (1) or specified in Article 9(2) of the Electoral Law (Northern Ireland) Order 1972 and such persons may, under the supervision of the Chief Electoral Officer, perform those functions on behalf of the Chief Electoral Officer.

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- (3) It shall be a duty of an officer of a district council to perform such functions as the Chief Electoral Officer may, with the approval of the Ministry of Development<sup>F19</sup>, appoint him to perform.
- (4) There may be paid,<sup>F20</sup> . . . , to persons appointed under subsection (1) such remuneration and to, or in respect of the service of, such persons such pensions, allowances and gratuities by way of superannuation and to or in respect of persons appointed under subsection (3) such sums as the Ministry, with the approval of the Ministry of Finance<sup>F17</sup>, may determine.]

- F15** 1972 NI 13  
**F16** App. (European Assembly), SI 1979/322  
**F17** Now Minister for Civil Service, SI 1973/2163  
**F18** SI 1985/454  
**F19** Now D/Env., SRO (NI) 1973/504; 1976 NI 6  
**F20** [1989 c. 3](#)

#### [<sup>F21</sup>**14B Travelling and subsistence allowances.**

There may be paid,<sup>F22</sup> . . . , to the Chief Electoral Officer<sup>F22</sup> and to persons appointed, or to whom functions are delegated, under section 14A travelling and subsistence allowances at such rates as the Secretary of State, with the approval of the Treasury, may determine].]

- F21** 1972 NI 13  
**F22** [1989 c. 3](#)

#### **15 Duties of Chief Electoral Officer.**

*Subs. (1) rep. by 1989 c. 3*

- (2) It shall be the duty of [<sup>F23</sup>the Chief Electoral Officer]...<sup>F24</sup> to prepare in accordance with section sixty-five...<sup>F24</sup> a scheme (in this Act referred to as a polling station scheme) providing for the location of a polling station or polling stations in each polling district (as defined in this Act)...

<sup>F24</sup>*Subs.(3) rep. by 1972 NI 13*

*Subs.(4) rep. by SLR 1980*

- F23** 1972 NI 13  
**F24** 1972 NI 13

*Ss.16—20 rep. by 1972 NI 13*

#### **21 Expenses of registration.**

*Subs.(1) rep. by 1972 NI 13*

*Subs.(2) rep. by SLR 1980*

*Subs.(3) rep. by 1972 NI 13*

*Subs.(4) rep. by 1971 c.4 (NI);1972 NI 13*

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*Subs. (5), (6) rep. by 1989 c. 3*

*Subs.(7) rep. by 1971 c.4 (NI)*

- (8) [<sup>F25</sup> The Chief Electoral Officer] shall furnish to the Ministry in such form and at such time as may be required by the Ministry an account of all expenses incurred by him in connection with a register.

*Subs. (9), (10) rep. by 1989 c. 3*

**F25** 1972 NI 13

## 22 Remuneration and expenses of returning officer at parliamentary election.

- (1) ...<sup>F26</sup> Save [<sup>F27</sup> as otherwise provided in this Act] an electoral officer or other person performing the functions of returning officer at a parliamentary election in any constituency...<sup>F28</sup> shall not give, pay, demand, take or accept any fee, reward or gratuity whatsoever for or in relation to any of such functions.
- (2) Any expenses properly incurred by an electoral officer as returning officer at a parliamentary election (in this Act referred to as election expenses ) shall...<sup>F26</sup> be charged on and paid out of the Consolidated Fund.
- (3) The Ministry may on the request of [<sup>F27</sup> the Chief Electoral Officer or a person to whom the duties of returning officer at a parliamentary election are delegated] for an advance on account of his election expenses make such an advance on such terms as it thinks fit.
- (4) The Ministry with the concurrence of the Ministry of Finance<sup>F29</sup> shall prescribe a scale of election expenses; and the time at which and the manner and form in which accounts of and claims for the payment of election expenses are to be submitted to the Ministry shall be such as the Ministry shall direct.

**F26** 1972 NI 13

**F27** 1972 NI 13

**F28** SLR 1980

**F29** Now Treasury, SI 1973/2163

## 23 Remuneration and expenses of Chief Electoral Officer and other persons at local election.

[<sup>F30</sup> (1) The expenses of the Chief Electoral Officer as returning officer at a local election, the expenses and remuneration of a deputy returning officer at such an election and the remuneration payable to persons employed in connection with such an election shall not exceed the amounts provided by a scale framed by the Ministry and approved by the Ministry of Finance<sup>F31</sup>.]

*Subs.(2) rep. by 1972 NI 13*

- (3) All expenses properly incurred in relation to the holding of a local election [<sup>F32</sup> held on or after [<sup>F33</sup> 1st October 1973]] shall be paid by the local authority concerned, [<sup>F30</sup> and all expenses properly incurred in relation to the holding of an election to a district council prior to [<sup>F33</sup> 1st October 1973] shall be paid out of moneys hereafter appropriated for the purpose of meeting such expenses and shall at such time after [<sup>F33</sup> 1st October 1973] as the Ministry may determine be repaid by the council to the

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Exchequer to such extent (if any) as the Ministry with the approval of the Ministry of Finance<sup>F34</sup> determines].

- (4) On the request of a returning officer for an advance on account of his election expenses at a local election, the local authority by which such expenses are to be paid may make such an advance on such terms as it thinks fit.

*Subs.(5) rep. by 1972 NI 13*

- (6) All costs properly incurred by a returning officer in the institution of legal proceedings arising out of a local election shall be deemed to form part of the expenses properly incurred by him in relation to the holding of the election.
- (7) Within<sup>F35</sup> six months] from the declaration of the result of an election to any local authority the returning officer shall submit to that local authority a detailed account of the expenses incurred by him in the conduct of that election supported by vouchers for the payments set out therein; and no sum which is not so supported may lawfully be paid out of any rate or fund administered by that local authority.

<b>F30</b>	1972 NI 13
<b>F31</b>	Now Minister for Civil Service, SI 1973/2163
<b>F32</b>	1972 NI 13
<b>F33</b>	1972 NI 21
<b>F34</b>	Now Treasury, SI 1973/2163
<b>F35</b>	SI 1985/454

## 24 Claims against, and taxation of expenses of, returning officer.

- (1) Every person having a claim against a returning officer for any debt incurred by or on behalf of the returning officer for the purposes of an election shall, within twenty-one days after the day on which in the case of a parliamentary election the return is made of a person or persons elected at the election, or in the case of a local election public notice is given of the result of the election, send to the returning officer detailed particulars in writing of such claim and the returning officer shall not be liable in respect of anything which is not duly stated in such particulars.<sup>F36</sup> In the case of a local election, this subsection shall have effect as if, for the period of twenty#one days referred to above, there were substituted a period of forty#two days]
- (2) There shall be added to every notice of election published under the provisions of this Act, a notification setting out the relevant provisions of subsection (1).
- (3) The Ministry or the local authority by which the expenses are payable may if it thinks fit apply to the county court for the taxation of any account and claim submitted respectively under subsection (4) of section twenty-two or subsection (7) of section twenty-three; and that court may tax such account and claim in such manner and at such time and place as it thinks fit and may finally determine the amount payable on foot thereof. The county court for the purpose of this section shall be the court having jurisdiction in the place of nomination for the election to which the account relates.
- (4) Where an application is made under subsection (3) the returning officer may apply to the court for the examination of any claim against him by any person in respect of any matter charged in the account in question; and after the claimant has been given due notice and has had an opportunity of tendering evidence in support of his claim, the

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court may allow, disallow or reduce the claim, whether with or without costs; and the determination of the court shall be final and conclusive.

**F36** SI 1985/454

## 25 Remuneration retainable by officers.

- (1) Any remuneration paid to [<sup>F37</sup> a person appointed under section 14A or to a deputy returning officer at a local election] may, subject to any term to the contrary in any contract to which he is a party, be retained by him for his own benefit.

*Subs.(2)(3) rep. by 1972 NI 13*

**F37** 1972 NI 13

*S.26 rep. by 1972 NI 13*

## 27 Mutual assistance by officers, etc.

It shall be the duty of every officer upon whom any functions are conferred by or under this Act, and of every officer or person appointed or employed (otherwise than by any candidate) for any of the purposes of this Act, to furnish such information and render such other assistance to any other such officer or person as that other officer or person properly requires for the purposes of this Act.

# PART V

## REGISTRATION OF ELECTORS AND VOTING

## 28 Preparation and publication of registers.

*Subs. (1)#(6) rep. by 1989 c. 3*

- (7) ...<sup>F38</sup> for the purpose only of determining whether a member of a local authority is qualified to continue to be such member for the remainder of his term of office by virtue of his being a local elector, the register in force [<sup>F39</sup> at the time of his becoming such a member] shall continue in force until the election day for that local authority in the next local election year.

**F38** 1972 NI 13

**F39** 1971 c.4 (NI)

## 29 Miscellaneous provisions as to registration and voting.

*Subs. (1) rep. by 1989 c. 3*

*Subs. (2) rep. by 1968 c.20 (NI); 1969 c.26 (NI)*

*Subs. (3)(4) rep. by 1968 c.20 (NI)*

*Subs. (5) rep. by 1972 NI 13*

*Subs. (6) rep. by 1989 c. 3*



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- (7) A person shall not be disqualified for voting at any election by reason only of his being lawfully employed for payment by or on behalf of a candidate at that election.
- (8) Where at any election an elector applies to vote in person at his allotted polling station, the presiding officer may not, except as provided by Rules 38, 42 and 44 of the Parliamentary Elections Rules or of<sup>F40</sup> rule 32 and paragraph (2) to (7) of rule 34 (including those paragraphs as applied by rules 35, 36 and 37) of the local elections rules] refuse to issue a ballot paper to that person or to permit him to vote; but an elector or other person demanding and receiving a ballot paper is nevertheless liable to the penalties provided in the Ninth Schedule if he votes in contravention of<sup>F41</sup> section 1(3) of the Elected Authorities (Northern Ireland) Act 1989].

**F40** SI 1985/454

**F41** 1989 c. 3

*S. 30 rep. by 1969 c. 26 (NI)*

*Ss. 31, 32 rep. by 1989 c. 3*

*S. 33 rep. by 1968 c. 20 (NI)*

## PART VI

### THE ELECTION CAMPAIGN

#### 34 Appointment of election agent.

- (1) Not later than the latest time for the delivery of notices of withdrawals for an election, a person shall be named by or on behalf of each candidate as the candidate's election agent, and the name and address of the candidate's election agent shall be declared in writing by the candidate or some other person on his behalf to the returning officer not later than that time.
- (2) A candidate may name himself as election agent, and thereupon shall, so far as circumstances admit, be subject to the provisions of this Act both as a candidate and as an election agent, and, except where the context otherwise requires, any reference in this Act to an election agent shall be construed as referring to the candidate acting in his capacity of election agent.
- (3) One election agent only shall be appointed for each candidate, but the appointment, whether the election agent appointed be the candidate himself or not, may be revoked.
- (4) If whether before, during or after the election the appointment<sup>F42</sup> (or, at a local election, a deemed appointment)] of an election agent is revoked or an election agent dies, another election agent shall be appointed forthwith and his name and address declared in writing to the returning officer.
- (5) Upon the name and address of an election agent being declared to the returning officer, the returning officer shall forthwith give public notice of that name and address.

**F42** SI 1987/168

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### 35 Sub-agents at parliamentary elections.

- (1) An election agent of a candidate at a parliamentary election for a county constituency may appoint one deputy election agent (in this Act referred to as a sub-agent) to act within each polling district and no more.
- (2) As regards matters in a polling district the election agent may act by the sub-agent for that district, and anything done for the purposes of this Act by or to the sub-agent in his district shall be deemed to be done by or to the election agent, and any act or default of a sub-agent which, if he were the election agent, would be an illegal practice or other offence against this Act shall be an illegal practice and offence against this Act committed by the sub-agent, and the sub-agent shall be liable to punishment accordingly; and the candidate shall suffer the like incapacity as if the said act or default had been the act or default of the election agent.
- (3) Not later than two days before the day of the poll, the election agent shall declare in writing to the returning officer the name and address of every sub-agent and the returning officer shall forthwith give public notice of the name and address of every sub-agent so declared.
- (4) The appointment of a sub-agent shall not be vacated by the election agent who appointed him ceasing to be election agent, but may be revoked by the election agent for the time being of the candidate, and in the event of the revocation of the appointment or of the death of a sub-agent another sub-agent may be appointed, and his name and address shall be forthwith declared in writing to the returning officer, who shall forthwith give public notice of the name and address so declared.

### 36 Offices of election agent and sub-agent.

- (1) Every election agent and every sub-agent shall have an office to which all claims, notices, writs, summonses and documents may be sent, and the address of the office shall be declared to the returning officer at the same time as the appointment of the agent, and shall be stated in the public notice of the name of the agent.<sup>F43</sup> At a local election, this subsection shall have effect as if after the words appointment of the agent there were inserted the words is declared to him.]
- (2) The office of the election agent shall, if for a parliamentary election, be within the constituency and, if for a local election within the local government electoral area, ...<sup>F44</sup>, and the office of a sub-agent shall be within his polling district...
- <sup>F44</sup>(3) Any claim, notice, writ, summons or document delivered at the office of the election agent or sub-agent and addressed to him shall be deemed to have been served on him, and every election agent or sub-agent may be sued in any court having jurisdiction at the place where his office is situate, in respect of any matter which is connected with the election in which he is acting and is within the competence of that court.

**F43** SI 1987/168

**F44** 1972 NI 13

### 37 Default in appointing election agent.

- (1) If no person's name and address are declared as required by section thirty-four as the election agent of a candidate who remains validly nominated at the latest time for delivery of notices of withdrawals, the candidate shall be deemed at that time to

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have named himself as election agent and to have revoked any appointment of another person as his election agent.

- (2) If the person whose name and address have been so declared as those of the candidate's election agent (not being the candidate himself) dies and a new appointment is not made on the day of the death or on the following day, the candidate shall be deemed to have appointed himself as from the time of the death.
- (3) If the appointment of a candidate's election agent is revoked without a new appointment being made, the candidate himself shall be deemed to have been appointed (or re-appointed) election agent.
- [<sup>F45</sup>(3A) At a local election the deemed appointment of a candidate as his own election agent may be revoked as if it were an actual appointment.]
- (4) Where a candidate is by virtue of this section to be treated as his own election agent, he shall be deemed to have his office at his address as given in the statement as to persons nominated or, if that address is not in the constituency or local government electoral area...<sup>F46</sup>, at the qualifying address of the person named in that statement as his proposer.
- (5) The returning officer on being satisfied that a candidate is by virtue of this section to be treated as his own election agent, shall forthwith proceed to publish the like notice as if the name and address of the candidate and the address of his office had been duly given to him under sections thirty-four and thirty-six.

**F45** SI 1987/168

**F46** 1972 NI 13

### **38 Making of contracts through election agent.**

- (1) The election agent of a candidate shall appoint every polling agent, clerk and messenger employed for payment on behalf of the candidate at an election, and hire every committee room hired on behalf of the candidate.
- (2) A contract whereby any election expenses are incurred shall not be enforceable against a candidate at the election unless made by the candidate himself or by his election agent:

Provided that this subsection shall not relieve the candidate from the consequences of any corrupt or illegal practice having been committed by his agent.

- (3) The references in this section to an election agent shall, in relation to a parliamentary election where sub-agents are allowed, be construed as references to the election agent acting by himself or by a sub-agent.

### **39 Payment of expenses at an election through election agent.**

- (1) Except as permitted by section forty, or in pursuance of section forty-three or section forty-four, no payment and no advance or deposit shall be made by a candidate or by any agent on behalf of the candidate or by any other person at any time in respect of expenses at [<sup>F47</sup> an election] otherwise than by or through the election agent of the candidate.

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- (2) Every payment made by an election agent in respect of any expenses at [<sup>F47</sup> an election] shall, except where less than [<sup>F48</sup> £2], be vouched for by a bill stating the particulars and by a receipt.<sup>F49</sup> At a local election, this subsection shall have effect as if for the words '£2' there were substituted the words '£20'.]
- (3) The references in the foregoing provisions of this section to an election agent shall, in relation to [<sup>F47</sup> an election] where sub-agents are allowed, be construed as references to the election agent acting by himself or by a sub-agent.
- (4) All money provided by any person other than the candidate for any expenses at [<sup>F47</sup> an election], whether as gift, loan, advance or deposit, shall be paid to the candidate or his election agent and not otherwise.
- (5) The foregoing provisions of this section shall not be deemed to apply to any sum disbursed by any person out of his own money for any small expense legally incurred by him if the sum is not repaid to him.

**F47** 1972 NI 13  
**F48** Subst. by virtue of [1969 c.19](#)  
**F49** SI 1987/168

#### **40 Personal expenses of candidate and petty expenses at an election.**

- [<sup>F50</sup> (1) The candidate at an election may pay any personal expenses (as defined by this Act) incurred by him on account of or in connection with or incidental to the election but the amount which a candidate at a parliamentary election may so pay shall not exceed 100 and any further personal expenses so incurred by him shall be paid by his election agent.]
- (2) Any person may, if so authorised in writing by the election agent of the candidate at [<sup>F50</sup> an election], pay any necessary expenses for stationery, postage, telegrams and other petty expenses to a total amount not exceeding that named in the authority, but any excess above the total amount so named shall be paid by the election agent.
  - (3) Within the time limited by this Act for sending in claims—
    - (a) the candidate at [<sup>F50</sup> an election] shall send to his election agent a written statement of the amount of personal expenses paid by him under subsection (1);
    - (b) any such person as is referred to in sub-section (2) shall give to the election agent a written statement of particulars of all payments made by him and shall on receiving repayment of the amount of such payments give the election agent a receipt therefor.
  - (4) All such payments as are referred to in sub-section (3) shall be included by the election agent in his return of expenses made under section forty-six, and for the purposes of that section the statement and receipt given under paragraph ( b ) of sub-section (3) shall be the relevant bill and receipt for the payments to which they relate.

**F50** 1972 NI 13

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#### **41 Prohibition of unauthorised expenses.**

(1) Subject to sub-sections (2), (3) and (4) and to sub-paragraph (3) of paragraph 31 of the Ninth Schedule, no expenses shall, with a view to promoting or procuring the election of a candidate at an election, be incurred by any person other than the candidate, his election agent and persons authorised in writing by the election agent on account—

- (a) of holding public meetings or organising any public display; or
- (b) of issuing advertisements, circulars or publications; or
- (c) of otherwise presenting to the electors the candidate or his views or the extent or nature of his backing or disparaging another candidate; or
- (d) of the hire or provision of vehicles for the conveyance of voters to or from the poll.

(2) Paragraph (c) of sub-section (1) shall not—

- (i) restrict the publication of any matter relating to the election in a newspaper or other periodical; or
- (ii) apply to any expenses<sup>[F51]</sup> incurred by any person which do not exceed in the aggregate the permitted sum (and are not incurred by that person as part of a concerted plan of action)], or to expenses incurred by any person in travelling or in living away from home or similar personal expenses.

<sup>[F51]</sup>(2A) For the purposes of subsection (2)(ii)—

- (a) the permitted sum means £50 together with an additional 0.5p for every entry in the register of local electors for the district electoral area in question as it has effect on the last day for publication of notice of the election; and
- (b) expenses are to be regarded as incurred by a person as part of a concerted plan of action if they are incurred by that person in pursuance of any plan or other arrangement whereby that person and one or more other persons are to incur, with a view of promoting or procuring the election of the same candidate, expenses which (disregarding subsection (2)(ii)) might fall within subsection (1) above.]

(3) Paragraph (d) of sub-section (1) shall not—

- (i) apply to the provision or use by its owner, for the purpose of conveying voters to or from the poll, of any vehicle, not being a vehicle ordinarily used for letting or hiring, where no payment or reward is made or promised by any person to the owner of the vehicle in respect of its provision or use for such purpose;
- (ii) apply to the letting, hiring, employing or using of a vehicle by a voter or several voters at their joint cost for the purpose of conveying him or them to or from the poll at any election.

*Subs.(4) rep. by 1972 NI 13*

(5) Every person authorised by the election agent under sub-section (1) to incur expenses at <sup>[F52]</sup>an election shall—

- (a) within seven days after the day on which the result of the election is declared, send to the election agent a written statement containing particulars of all expenses incurred by him and such expenses shall for all the purposes of this Act be regarded as expenses incurred by the election agent;
- (b) within fourteen days after the day on which the result of the election is declared send to the returning officer a return of the amount of those expenses, stating the election at which and the candidate in whose support they were

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incurred, and the return shall be accompanied by a declaration made by the said person (or in the case of an association or body of persons, by a director, general manager, secretary or other like officer thereof) verifying the return and giving particulars of the matters for which the expenses were incurred:

Provided that paragraph (b) shall not apply to any person engaged or employed for payment or promise of payment by the candidate or his election agent.<sup>[F53]</sup> At a local election, paragraph (b) of this subsection shall have effect as if for the words fourteen and send there were substituted twenty#one and deliver, respectively.]

- (6) The return and declaration under the foregoing provisions of this section shall be respectively in the forms numbered 2 and 3 in the Tenth Schedule, and the authority received from the election agent shall be annexed to and deemed to form part of the return.

**F51** SI 2001/417  
**F52** 1972 NI 13  
**F53** SI 1987/168

## 42 Limitation of expenses at an election.

- (1) No sum shall be paid and no expense shall be incurred by a candidate at <sup>[F54]</sup>an election] or his election agent, whether before, during or after an election, on account of or in respect of the conduct or management of the election, in excess of the maximum amount, which <sup>[F54]</sup>for a candidate at a parliamentary election is an amount equal to two-and-a-half new pence for each parliamentary elector on the<sup>[F55]</sup> current register, and for a candidate at a local election is<sup>[F56]</sup> £600] together with an additional<sup>[F56]</sup> 5p] for every entry in the register of electors<sup>F57</sup> . . . .]

<sup>[F57]</sup>(1A) In subsection (1) the register of electors means the register of local electors for the district electoral area in question as it has effect on the last day for publication of notice of the election.]

- (2) The said maximum amount <sup>[F58]</sup>for a candidate at a parliamentary election] shall not be required to cover—
- (a) any personal expenses incurred by the candidate; or
  - (b) the fee, if any, paid by a candidate to his election agent—
    - (i) in a county constituency, to an amount not exceeding seventy-five pounds;
    - (ii) in a borough constituency or the university constituency, to an amount not exceeding fifty pounds.
- (3) Where there are two or more joint candidates the maximum amount of expenses —
- <sup>[F55]</sup>(a) <sup>[F55]</sup>at a parliamentary election] shall be the amount produced by multiplying by one-and-a-half the amount applicable under sub-section (1) to a separate candidate and dividing the result by the number of joint candidates;<sup>[F55]</sup> and]
  - <sup>[F55]</sup>(b) <sup>[F55]</sup>at a local election shall, for each of two<sup>F59</sup> . . . joint candidates, be reduced by one-fourth or, if there are more than two joint candidates, by one-third.]
- (4) Where two or more candidates appoint the same election agent or by themselves or any agent or agents—

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- (a) employ or use the services of the same polling agents, clerks or messengers at the election; or
- (b) hire or use the same committee rooms for the election; or
- (c) publish a joint address or joint circular or notice at the election;

those candidates shall be deemed to be joint candidates:

Provided that the employment and use of the same polling agent, clerk, messenger or committee room, if accidental or casual, or of a trivial and unimportant character, shall not be deemed of itself to constitute persons joint candidates.

(5) Nothing in sub-section (4) shall prevent candidates from ceasing to be joint candidates; but such a cesser shall take effect only when the returning officer receives a notice, signed by each joint candidate, of his intention to become a separate candidate, and notifying the name and address of the election agent appointed by him as such separate candidate.

(6) Where—

- (a) any excess of expenses above the maximum allowed for one of two or more joint candidates has arisen owing to his having ceased to be a joint candidate, or to his having become a joint candidate after having begun to conduct his election as a separate candidate;
- (b) the change was made in good faith;
- (c) the excess is not more than what under the circumstances is reasonable; and
- (d) the total election expenses of the candidate do not exceed the maximum amount allowed for a separate candidate;

the excess shall be deemed to have arisen from a reasonable cause for the purposes of section one hundred and seven.

<b>F54</b>	1972 NI 13
<b>F55</b>	SI 1985/454
<b>F56</b>	SI 2005/864
<b>F57</b>	SI 2001/417
<b>F58</b>	1972 NI 13
<b>F59</b>	SI 1990/595

### **43 Time for sending in and paying claims.**

(1) Every claim against a candidate or his election agent in respect of expenses at [<sup>F60</sup> an election] which is not sent into the election agent within fourteen days after the day on which the result of the election is declared shall be barred and not paid.<sup>F61</sup> At a local election, this subsection, subsection (3) and section 44(4) shall have effect as if for the word fourteen there were substituted twenty#one.]

(2) All such election expenses shall be paid within twenty-eight days after the said day.

(3) The High Court or the county court, on an application by the claimant or the candidate or his election agent, may on cause shown to the satisfaction of the court by order grant leave for the payment of a claim for any expenses at [<sup>F60</sup> an election] although sent in—

- (a) after the said period of fourteen days; or
- (b) to the candidate and not to the election agent;

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and any sum paid by the candidate or election agent in pursuance of such an order shall be deemed to have been paid in compliance with sub-section (2).

*Subs.(4) rep. by 1978 c.23*

**F60** 1972 NI 13  
**F61** SI 1987/168

#### **44 Disputed claims.**

- (1) If the election agent disputes any claim duly sent in to him under section forty-three or refuses or fails to pay the claim within the period of twenty-eight days so provided, the claim shall be deemed to be a disputed claim.
- (2) The claimant may, if he thinks fit, bring an action for a disputed claim in any competent court, and any sum paid by the candidate or his agent in pursuance of the judgment or order of the court shall not be deemed to be in contravention of sub-section (1) of section thirty-nine or of sub-section (2) of section forty-three.
- (3) If the defendant in the action admits his liability but disputes the amount of the claim, the said amount shall, unless the court on the application of the plaintiff otherwise directs, be forthwith referred for taxation to the proper officer of the court and the amount found due on the taxation shall be the amount to be recovered in the action in respect of the claim.
- (4) Sub-sections (3) and (4) of section forty-three shall apply in relation to a disputed claim as they apply in relation to a claim for election expenses sent in after the said period of fourteen days.

#### **45 Claim by election agent at an election.**

So far as circumstances admit, this Act shall apply to a claim for his remuneration by an election agent at [<sup>F62</sup> an election] and to the payment thereof in like manner as if he were any other creditor, and if any difference arises respecting the amount of the claim, the claim shall be a disputed claim within the meaning of this Act and be dealt with accordingly.

**F62** 1972 NI 13

#### **46 Return as to expenses at an election.**

- (1) Within thirty-five days after the day on which the result of the election is declared, the election agent of every candidate at [<sup>F63</sup> an election] shall transmit to the returning officer a true return in the form numbered 4 in the Tenth Schedule, containing as respects that candidate a statement of all payments made by the election agent together with all the relevant bills and receipts.
- (2) The return shall deal under a separate heading or sub-heading with any expenses included therein—
  - (a) as respects which a return is required to be made under sub-section (5) of section forty-one; or



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- (b) which are on account of the remuneration or expenses of speakers at public meetings.
- (3) The return shall also contain as respects that candidate—
- (a) a statement of the amount of personal expenses, if any, paid by the candidate;
  - (b) a statement of all disputed claims of which the election agent is aware;
  - (c) a statement of all the unpaid claims, if any, of which the election agent is aware, in respect of which application has been or is about to be made to the High Court or county court;
  - (d) a statement of all money, securities and equivalent of money received by the election agent from the candidate or any other person for the purposes of election expenses incurred or to be incurred, with a statement of the name of every person from whom they have been received.
- (4) Where the candidate is his own election agent, a statement of all money, securities and equivalent of money paid by the candidate shall be substituted in the return as to election expenses for the statement of money, securities and equivalent of money received by the election agent from the candidate.
- (5) Where after the date at which the return as to election expenses is transmitted, leave is given by the court under sub-section (3) of section forty-three for any claims to be paid, the candidate or his election agent shall, within seven days after the payment thereof, transmit to the returning officer a return of the sums paid in pursuance of the leave, accompanied by a copy of the order of the court giving the leave; and in default he shall be deemed to have failed to comply with the requirements of this section without such authorised excuse as is mentioned in section forty-nine.
- (6) Notwithstanding anything in this section or in section forty-seven, no return or declaration as to election expenses shall be required in the case of a person—
- (a) who is a candidate at an election but is so only because he has been declared by others to be a candidate; and
  - (b) who has not consented to the declaration or taken any part as a candidate in the election.
- [<sup>F64</sup>(7) At a local election, subsections (1) and (5) shall have effect as if for the word transmit in each place where it occurs there were substituted deliver and for the word transmitted in subsection (5) there were substituted delivered.]

<b>F63</b> 1972 NI 13
<b>F64</b> SI 1987/168

#### **47 Declarations as to expenses at a parliamentary election.**

- (1) The return transmitted under sub-section (1) of section forty-six shall be accompanied by a declaration made by the election agent before a justice of the peace in the form numbered 5 in the Tenth Schedule.
- (2) At the same time that the election agent transmits the said return, or within seven days afterwards, the candidate shall transmit or cause to be transmitted to the returning officer a declaration made by him before a justice of the peace in the form numbered 5 in the Tenth Schedule:

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Provided that where the candidate is out of the United Kingdom when the return is so transmitted, the declaration required by this sub-section may be made by him within fourteen days after his return to the United Kingdom, and in that case shall be forthwith transmitted to the returning officer, but the delay hereby authorised in making the declaration shall not exonerate the election agent from complying with the provisions of this Act as to the return and declaration as to election expenses.

- (3) Where the candidate is his own election agent, the declaration by an election agent as to election expenses need not be made and the declaration by the candidate as to election expenses shall be modified as specified in the form in the said Schedule.
- [<sup>F65</sup>(4) At a local election, subsections (1) and (2) shall have effect as if for the word transmitted in each place where it occurs in subsection (1) and the proviso to subsection (2) there were substituted delivered and for the words transmits and transmit or cause to be transmitted in subsection (2) there were substituted respectively delivers and deliver.]

F65 SI 1987/168

#### **48 Penalty for sitting or voting after failure to transmit return and declarations.**

- (1) If with respect to any candidate the return and declarations as to election expenses are not transmitted before the expiration of the time limited for the purpose, that candidate shall not after the expiration of that time sit or vote in the House of Commons as a member for the constituency in which the election was held either until the said return and declarations have been transmitted or until the date of the allowance of an authorised excuse under section forty-nine. [<sup>F66</sup> At a local election this subsection shall have effect as if for the word transmitted, in each place where it occurs, there were substituted delivered.]
- (2) A person who, in contravention of sub-section (1), sits or votes in the House of Commons shall forfeit one hundred pounds for every day on which he so sits or votes.
- <sup>F67</sup>(2A) In the application of subsections (1) and (2) to a candidate at a local election—
- (a) the reference to sitting and voting in the House of Commons as a member for a constituency for which the election was held shall be taken as a reference to sitting or voting in the district council for the district for which the election was held; and
  - (b) fifty pounds shall be substituted for one hundred pounds and, instead of civil proceeding for a penalty, summary proceedings may be instituted in a court of summary jurisdiction and the person charged shall be liable, on conviction, to a fine of an amount not exceeding the amount of the penalty which would be recoverable in civil proceedings.]
- (3) A proceeding under sub-section (2) shall be commenced within one year after the date of the contravention and for the purpose of this sub-section a proceeding shall be deemed to be commenced—
- (a) where the service or execution of a writ or other process is prevented by the absconding or concealment or act of the alleged offender, by the issue of the writ or process;
  - (b) in any other case, by the service or execution of the writ or process on or against the alleged offender.

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F66 SI 1987/168  
F67 1972 NI 13

#### 49 Authorised excuses for failures as respects return and declarations.

(1) The High Court, an election court or the county court may on the application of a candidate or his election agent grant relief in accordance with this section.

[<sup>F68</sup>(1A) Where a person makes an application under this section in respect of the return and declaration as to election expenses at a local election, he shall notify the Director of Public Prosecutions for Northern Ireland of the application and the Director or his assistant or any barrister or solicitor duly appointed as the Director's representative may attend the hearing of the application and make representations at the hearing in respect of it.]

(2) Relief under this section may be granted—

- (a) to a candidate, in respect of any failure to transmit the return and declarations as to election expenses, or any part of them, or in respect of any error or false statement therein; or
- (b) to an election agent, in respect of the failure to transmit the return and declarations that he is required to transmit or any part of them or in respect of any error or false statement therein.

[<sup>F68</sup>At a local election this subsection shall have effect as if for the word transmit, in each place where it occurs, there were substituted deliver.]

(3) The application for relief may be made on the ground that the failure, error or false statement arose—

- (a) by reason of the illness of the applicant; or
- (b) where the applicant is the candidate, by reason of the absence, death, illness or misconduct of his election agent or sub-agent or of any clerk or officer of such agent; or
- (c) where the applicant is the election agent, by reason of the death or illness of any prior election agent of the candidate, or of the absence, death, illness or misconduct of any sub-agent, clerk or officer of any election agent of the candidate; or
- (d) by reason of inadvertence or any reasonable cause of a like nature;

and not by reason of any want of good faith on the part of the applicant.

(4) The court may, after such notice of the application in the constituency and on production of such evidence of the grounds stated in the application and of the good faith of the application and otherwise as to the court seems fit, make such order for allowing an authorised excuse for the failure, error or false statement as to the court seems just.

(5) Where it is proved to the court by the candidate that any act or omission of the election agent in relation to the return and declarations was without the sanction or connivance of the candidate, and that the candidate used all reasonable means for preventing the act or omission, the court shall relieve the candidate from the consequences of the act or omission of his election agent.

(6) An order under sub-section (4) may make the allowance conditional on the making of the return and declaration in a modified form or within an extended time, and upon

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the compliance with such other terms as to the court seem best calculated for carrying into effect the objects of this Part.

- (7) An order under sub-section (4) shall relieve the applicant for the order from any liability or consequences under this Act in respect of the matter excused by the order.
- (8) The date of the order, or if conditions and terms are to be complied with, the date at which the applicant fully complies with them, is referred to in this Act as the date of the allowance of the excuse.
- (9) The jurisdiction conferred on the High Court by this section may, subject to rules of court, be exercised by a judge sitting either in court or at chambers.
- (10) An appeal shall lie to the High Court from any order of a county court made by virtue of this section.

**F68** SI 1987/168

## **50 Power of court to require information from election agent or sub-agent.**

- (1) Where on an application to the county court under section forty-nine it appears to that court that any person who is or has been an election agent or sub-agent has refused or failed to make such return, or to supply such particulars, as will enable the candidate and his election agent respectively to comply with the provisions of this Act as to the return or declarations as to election expenses, the court before making an order under the said section, shall order that person to attend before the court.
- (2) The court shall on the attendance of that person, unless he shows cause to the contrary, order him to make the return and declaration, or to deliver a statement of the particulars required to be contained in the return, as to the court seems just, within such time, to such person and in such manner as the court may direct, or may order him to be examined with respect to the particulars.
- (3) If a person fails to comply with any order of the court under this section, the court may order him to pay a fine not exceeding five hundred pounds.  

[<sup>F69</sup>At a local election this subsection shall have effect as if for the words five hundred pounds, there were substituted the amount of the maximum fine to which he would be liable if at the time the order is made he were convicted of a summary offence on conviction of which he was liable to a fine of level 5 on the standard scale.]
- (4) Rules of court may make in relation to the High Court and an election court the like provision as is made in relation to a county court by sub-sections (1) to (3).

**F69** SI 1987/168

## **51 Publication of summary of return as to election expenses at elections.**

At [<sup>F70</sup> an election] the returning officer shall, within ten days after he receives from the election agent of a candidate a return as to election expenses, publish in two or more newspapers circulating in the constituency for which the election was held, a summary of the return accompanied by a notice of the time and place at which the return and declarations (including the accompanying documents) can be inspected.

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**F70** 1972 NI 13

## 52 Inspection of returns and declarations.

- (1) Any returns or declarations (including the accompanying documents) sent to the returning officer under section forty-one, section forty-six or section forty-seven shall be kept at the office of the returning officer or some convenient place appointed by him and shall at all reasonable times during two years next after they are received by him be open to inspection by any person on payment of a fee of [<sup>F71</sup> 5p], [<sup>F72</sup> in the case of a return or declaration relating to a parliamentary election] and the returning officer shall on demand furnish copies thereof or of any part thereof at the price of [<sup>F71</sup> 1p] [<sup>F72</sup> in the case of a return or declaration relating to a parliamentary election,] for every seventy-two words. [<sup>F72</sup> Where the return or declaration relates to a local election, the fee for inspection shall be £1 and the price of copies shall be 10p for each side of each page<sup>F73</sup> and this subsection shall have effect as if for the word sent there were substituted delivered].]
- (2) After the expiration of the said two years the returning officer may cause all such returns and other documents as are referred to in sub-section (1) to be destroyed or—
  - (a) if the candidate or his election agent so requires shall return to the candidate all such documents other than those sent under section forty-one;
  - (b) if the person sending such documents under section forty-one so requires, shall return to that person the documents sent by him.

**F71** Subst. by virtue of 1969 c.19  
**F72** SI 1985/454  
**F73** SI 1987/168

## 53 Right to send election address post free.

- <sup>F74</sup>(1) A candidate at a parliamentary<sup>F75</sup> or local] election shall, subject to<sup>F76</sup> such reasonable terms and conditions as the universal service provider may specify<sup>F77</sup>, be entitled to send free of any charge for postage<sup>F76</sup> which would otherwise be made by a universal service provider] to each elector one postal communication containing matter relating to the election only and not exceeding two ounces in weight.
- (2) A person shall not be deemed to be a candidate for the purposes of this section unless he is shown as standing validly nominated in the statement of persons nominated, but until the publication of that statement any person who declares himself to be a candidate shall be entitled to exercise the right of free postage conferred by this section if he gives such security as may be required by<sup>F76</sup> the universal service provider concerned<sup>F77</sup> for the payment of postage should he not be shown as standing validly nominated as aforesaid.
- (3) For the purposes of this section, candidates who are, under sub-section (4) of section forty-two, deemed to be joint candidates shall be treated as a single candidate.
- <sup>F76</sup>(4) In this section universal service provider has the same meaning as in the Postal Services Act 2000.]

**F74** Ext. (local elections), SI 1977/428

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- F75** SI 1985/454  
**F76** SI 2001/1149  
**F77** To be construed as Post Office, 1969 c.48

**54 Rateability of premises unaffected by election meeting thereon.**

The use of any premises for the holding of public meetings in furtherance of any person's candidature at any election shall not render any person liable to be rated or to pay any rate for the premises.

**55 Duty on and licences for carriages, etc., used at elections.**

No person shall be liable to pay any duty or take out a licence for any carriage or other vehicle by reason only of such carriage or other vehicle being used without payment or promise of payment for the conveyance of electors to or from the poll at any election<sup>[F78]</sup> other than a local election].

- F78** SI 1987/168

**56 Rights of creditors.**

The provisions of this Act prohibiting—

- (a) payments and contracts for payments;
- (b) the payment or incurring of election expenses in excess of the maximum amount allowed by this Act; or
- (c) the incurring of expenses not authorised by the election agent;

shall not affect the right of any creditor, who, when the contract was made or the expense was incurred, was ignorant of that contract or expense being in contravention of this Act.

## PART VII

### CONDUCT OF ELECTIONS

**57 Rules for conduct of elections.**

- (1) The proceedings at a parliamentary election shall be conducted in accordance with the Parliamentary Elections Rules.
- (2) The proceedings at a local election shall be conducted in accordance with the Local Elections Rules.
- (3) The provisions of the Parliamentary Elections Rules and the Local Elections Rules may be varied by an Order in Council; but the Governor shall not be advised to make any such Order unless a draft thereof (which shall be subject to affirmative resolution) has been laid before Parliament.
- (4) Where for any reason an election cannot be held or completed in accordance with the provisions of this Act and there is no statutory provision other than this sub-section for—

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- (a) the holding of the election at a later date; or
- (b) procuring the completion of the election; or
- (c) holding a fresh election;

the [<sup>F79</sup> Chief Electoral Officer] may give such directions and make such arrangements as may be necessary for enabling the election to be so held or completed and such directions may in the case of an uncompleted election provide either for the holding of a fresh election or for the taking afresh of any of the proceedings of the uncompleted election and may determine the times at or within which any proceedings are to be taken and the provisions of this Act shall except as otherwise provided in this subsection apply to any such election or proceeding.

- (5) If the [<sup>F79</sup> Chief Electoral Officer] is satisfied that any difficulty arises with respect to any local election or that for any reason a vacancy in a local authority cannot be filled in accordance with the provisions of this Act, the [<sup>F79</sup> Chief Electoral Officer] may make such arrangements as [<sup>F79</sup> he] considers necessary to procure the holding of an election and may apply, with such amendment as may be necessary, the Rules for the holding of [<sup>F79</sup> local general] elections or of elections to fill casual vacancies...

- <sup>F80</sup>(6) It shall be the general duty of the returning officer at an election to do all such acts and things as may be necessary for effectually conducting the election in accordance with the provisions of this Act.

**F79** 1972 NI 13

**F80** 1972 NI 13

## **58 Saving as respects acts, etc., of officers.**

No election shall be declared invalid by reason of any act or omission by the returning officer or any other person in breach of his official duty or otherwise of any provision of this Act regulating the conduct of elections, if it appears to the tribunal having cognizance of the question that the election was so conducted as to be substantially in accordance with those provisions, and that the act or omission did not affect its result.

## **59 Returning officer not disqualified for voting.**

A person is not disqualified for voting at an election by reason only of his being or acting as returning officer at that election.

## **60 Candidates' deposits.**

- (1) Every candidate at an election [<sup>F81</sup> (other than a local election)] shall at the place and during the time for delivery of nomination papers deposit or cause to be deposited with the returning officer an amount in accordance with this section; and if he fails to do so his nomination shall be void.
- (2) Except with the consent of the returning officer a deposit shall not be made otherwise than by means of any legal tender.
- (3) The amount of the deposit shall—
- (a) for a parliamentary election be one hundred and fifty pounds;

*Para. (b) rep. by SI 1985/454*

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**F81** SI 1985/454

## 61 Return or disposal of deposit.

- (1) Where a candidate in respect of whom a deposit has been made—
- (a) withdraws in accordance with the Parliamentary Elections Rules<sup>F82</sup> . . . , the deposit shall be returned forthwith to the person by whom it was made;
  - (b) dies before the commencement of the poll the deposit shall forthwith—
    - (i) if made by him, be returned to his personal representatives;
    - (ii) if not made by him, be returned to the person by whom it was made;
 and paragraph (a) shall apply to a candidate whose nomination paper is determined to be invalid in like manner as it applies to a candidate who withdraws.

- (2) Where a candidate is not elected his deposit shall be forfeited if—

*Para. (a) rep. by 1968 c.20 (NI)*

- (b)<sup>F83</sup> in any . . .<sup>F84</sup> election, the number of votes given to him does not exceed one-eighth of the total number of votes polled;

and in any other case the deposit shall be returned to the person by whom it was made.

For the purposes of this sub-section the number of votes polled shall be taken to be the number of ballot papers (other than spoilt ballot papers) counted.

- (3) Subject to sub-sections (4) and (5), where a candidate is elected—
- (a) at a parliamentary election, when and so soon as the candidate has taken the oath as a member;

*Para. (b) rep. by SI 1985/454*

the deposit shall be returned to the candidate or other person by whom it was made; and until such oath has been taken or declaration made, as the case may be, the returning officer shall retain the deposit.

- (4) If any elected candidate fails, by reason of his death, mental or physical incapacity or other cause not within his control, to take the oath or as the case may be to make the declaration respectively referred to in sub-section (3), the returning officer—
- (a) upon application being made to him by or on behalf of the candidate or his estate or by or on behalf of the person by whom the deposit was made; and
  - (b) upon being satisfied as to such cause as aforesaid and as to the title of the applicant;

shall pay the deposit to the applicant as soon as may be.

- (5) Where a deposit is retained under sub-section (3) and is not paid to an applicant under sub-section (4), the returning officer—
- (a) where the deposit was made at a parliamentary election, shall retain the deposit until the next following dissolution of Parliament;

*Para. (b) rep. by SI 1985/454*

and a deposit so retained shall be forfeited as from the date of such dissolution or, as the case may be, on the expiration of such period.



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- (6) As soon as may be after a deposit has been forfeited under sub-section (5) the returning officer shall send to the Ministry a full report thereon in writing.
- (7) Where a deposit is retained under sub-section (5) any person claiming to be entitled thereto may at any time before the deposit is forfeited apply to the county court for an order that the deposit be paid to him; and the court upon being satisfied—
- (a) that the failure which caused the retention was not due to a cause within the control of the candidate; and
  - (b) that the applicant is in all other respects entitled to the deposit;
- shall by order declare accordingly; and the returning officer shall thereupon pay the deposit to the applicant after deducting therefrom such costs as the court may order to be so deducted. The costs of such an application shall be in the discretion of the court.
- (8) A deposit forfeited under this section—

*Para.(a) rep. by 1968 c.20 (NI)*

- (b) in relation to an election in any...<sup>F84</sup> constituency, shall be remitted by the returning officer to the Ministry of Finance<sup>F85</sup> and paid into the Exchequer;

*Para. (c) rep. by SI 1985/454*

<b>F82</b>	SI 1985/454
<b>F83</b>	Mod. (local elections), SI 1977/428
<b>F84</b>	1968 c.20 (NI)
<b>F85</b>	Now Treasury, SI 1973/2163

## 62 Plural candidatures prohibited.

- (1) A person may not be nominated as a candidate at any parliamentary or local election where the nomination would result in that person's being a candidate at the same time—
- (a) in more than one constituency or, as the case may be, more than one...<sup>F86</sup>[<sup>F87</sup> district electoral area] in the same local government electoral area;

*Para.(b) rep. by 1972 NI 13*

and any nomination contravening this sub-section shall be void.

- (2) Sub-section (1) shall not be construed as preventing a duly qualified person from being nominated as a candidate at the elections of two or more local authorities notwithstanding that those elections are held on the same day.

<b>F86</b>	1972 NI 13
<b>F87</b>	SI 1990/595

## 63 Offices of returning officers at parliamentary elections.

The returning officer...<sup>F88</sup> shall appoint to be his principal office for the purpose of [<sup>F89</sup> a parliamentary election] a place which [<sup>F89</sup> is within the constituency for which the election is held or within the area of a district council which wholly or partly contains the constituency] and may appoint to be subsidiary offices for the said purpose such other places, situate respectively as aforesaid, as he may think necessary.

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**F88** 1972 NI 13

**F89** 1972 NI 13

#### 64 Offices of returning officers at local elections.

The returning officer...<sup>F90</sup> shall appoint to be his principal office for the purpose of [<sup>F91</sup> a local election] a place situate—

- (a) within the local government electoral area for which the election is to be held;

*Paras.(b)(c) rep. by 1972 NI 13*

and may appoint to be subsidiary offices for the said purpose such other places situate within the area for which the election is to be held as he may think necessary.

**F90** 1972 NI 13

**F91** 1972 NI 13

#### 65 Polling station schemes.

- (1) A polling station scheme prepared under sub-section (2) of section fifteen (in this section referred to as a scheme) shall provide for the designation of such number of polling stations in such situations as to provide for all electors in each polling district such reasonable facilities for voting as are practicable in the circumstances.

<sup>F92</sup>(1A) The Chief Electoral Officer shall in [<sup>F93</sup> the year 1973] and every fourth year thereafter prepare in accordance with the provisions of this section a draft scheme providing for the location of a polling station or polling stations in each polling district (as defined in this Act) and shall publish the draft scheme in accordance with electoral regulations under sub-section (4).]

- (2) The [<sup>F94</sup> Chief Electoral Officer] may if [<sup>F94</sup> he] thinks fit cause a local inquiry to be held in relation to the [<sup>F92</sup> draft] scheme or any question arising in connection with it; and if such an inquiry is held [<sup>F94</sup> the Chief Electoral Officer shall] take into consideration the report of the person who held it.

<sup>F94</sup>(3) The Chief Electoral Officer shall consider any objections or proposals made in relation to the draft scheme and shall then approve the scheme with or without modifications (which may include additions or exceptions).]

- (4) The Ministry may by electoral regulations make provision—

- (a) for the method of selection of polling stations...<sup>F95</sup>;
- (b) for the time within which and the manner in which draft schemes are to be published and objections or proposals in relation thereto may be lodged by interested persons;
- (c) for the time within which and the manner in which schemes are to be [<sup>F94</sup> approved]; and
- (d) the manner in which approved schemes are to be published.

- (5) As from the date of publication of a scheme [<sup>F92</sup> approved under sub-section (3)] the polling stations therein designated shall, subject to sub-section (6), be the polling stations to be used, at any parliamentary or local election initiated between that date

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and the date of publication of a new scheme, [<sup>F92</sup> approved under sub-section (3)] for the polling districts to which the scheme relates...

<sup>F95</sup>[<sup>F94</sup> (6) The Chief Electoral Officer may for the purpose of any particular election omit from or add to the polling stations designated in a polling station scheme such station or stations as he considers necessary.]

<b>F92</b>	1972 NI 13
<b>F93</b>	1972 NI 21
<b>F94</b>	1972 NI 13
<b>F95</b>	1972 NI 13

## 66 Voting by post.

- (1) Subject to sub-section (2) a parliamentary elector who satisfies the electoral officer that he will be unable to vote at any election by reason—
  - (a) of absence from Northern Ireland; or
  - (b) of illness or other physical incapacity; or
  - (c) of his being a person to whom paragraph (a) of sub-section (3) or sub-section (5) of section five applies;may vote by post in accordance with the Fourth Schedule.
- (2) An elector shall not vote by post at any election unless—
  - (a) on or after the date on which the election is initiated and not later than the hour of five o'clock in the afternoon of the second day after nomination day the electoral officer receives an application for a postal ballot paper either from that elector or on his behalf from a person registered as a parliamentary elector in a constituency in Northern Ireland who is the spouse, parent, grandparent, brother, sister, child or grandchild of that elector; and
  - (b) that application is accompanied by a postal address to which a postal ballot paper may be sent which address shall as respects an elector absent from Northern Ireland be outside Northern Ireland but within the postal voting area as defined in this Act.

## 67 Voting by proxy.

- (1) <sup>F96</sup> [<sup>F97</sup> An] elector to whom this section applies may, subject to sub-section (2), appoint a person to vote on his behalf at any election initiated during the period for which under the Seventh Schedule the appointment continues in force.
- (2) <sup>F96</sup> This section applies to—
  - (a) any elector registered by virtue of a service qualification;
  - (b) any other [<sup>F98</sup> parliamentary] elector who satisfies the electoral officer, ... <sup>F99</sup>, that in any six consecutive months he will or is likely to be at sea or out of the United Kingdom for a period or two or more periods together exceeding four weeks.
- (3) An elector registered by virtue of a service qualification may not vote otherwise than in person or by proxy.
- (4) <sup>F96</sup> The provisions of the Seventh Schedule shall have effect in relation to the appointment and voting of proxies.

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[<sup>F100</sup>(5) This section and Schedule 7 shall not apply at a local election.]

**F96** Ext., SI 1977/428  
**F97** 1969 c.26 (NI)  
**F98** 1969 c.26 (NI)  
**F99** 1968 c.20 (NI)  
**F100** SI 1985/454

*S.68 rep. by 1969 c.26 (NI)*

PART VIII (SS.69—71) REP. BY 1968 C.20 (NI)

## PART IX

### QUESTIONING OF ELECTIONS

#### 72 Election courts.

- (1) Election courts for the trial in accordance with this Part of petitions relating to parliamentary and local elections shall be constituted in accordance with this section.
- <sup>F101</sup>(2) An election court for the trial of petitions relating to parliamentary elections (in this Act referred to as a parliamentary election court) shall consist of the two judges of the High Court or the Court of Appeal for the time being selected under section 108 of the Judicature (Northern Ireland) Act 1978 .]
- (3) An election court for the trial of petitions relating to local elections (in this Act referred to as a local election court) shall consist of a barrister-at-law of not less than ten years' standing in practice, not being a person who—
  - (a) is a member of either House of Parliament;
  - (b) holds any office or place of profit under the Crown; or
  - (c) resides within or is registered as a local elector for the local government electoral area (or where the area is the [<sup>F102</sup> City] of Belfast, resides within or is registered as a local elector for the [<sup>F103</sup> district electoral area]) to which the petition relates;

and the judges of the<sup>F104</sup> Supreme Court or a majority of them may from time to time appoint as many barristers-at-law, not exceeding five, as they may think necessary for the trial of local election petitions, and shall assign petitions to each such barrister in rotation; and where a barrister to whom a petition has been assigned dies or declines to act or becomes incapable of acting the said judges may assign the trial to be conducted or continued by any other barrister so appointed.

*Subs.(4) rep. by 1978 c.23*

- (5) The provisions of the Eighth Schedule shall have effect in relation to election courts.

*Subs.(6) repeals s.11 (pt.) of 1868 c.125; s.43 of 1877 c.57; 1879 c.75; s.42 of 1883 c.51*

**F101** 1978 c.23  
**F102** 1972 NI 13

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**F103** SI 1985/454

**F104** prosp. subst. by 2005 c. 4

### **73 Attendance of Director of Public Prosecutions at trial of election petition.**

<sup>F105</sup><sup>F106</sup> The Director of Public Prosecutions for Northern Ireland] shall attend the trial of every election petition or cause it to be attended on his behalf.<sup>F107</sup> At the trial of a petition relating to a local election, this section shall have effect as if for the word shall there were substituted may and, if the election court so requests him, shall.]

**F105** continue to am. 2002 c. 26

**F106** 1972 NI 1

**F107** SI 1987/168

### **74 Method of questioning parliamentary election.**

- (1) No parliamentary election and no return to Parliament shall be questioned except by a petition complaining of an undue election, an undue return or no return (hereinafter referred to as a parliamentary election petition) presented in accordance with this Part.
- (2) Where a petition complains of no return, the High Court may make such order thereon as they think expedient for compelling a return to be made or may allow the petition to be heard by an election court as provided with respect to ordinary election petitions.

### **75 Presentation and service of parliamentary election petition.**

- (1) A parliamentary election petition may be presented by one or more of the following persons:—
  - (a) a person who voted as an elector at the election or who had a right so to vote; or
  - (b) a person claiming to have had a right to be elected or returned at the election; or
  - (c) a person alleging himself to have been a candidate at the election.
- (2) The member whose election or return is complained of is hereinafter referred to as the respondent, but if the petition complains of the conduct of a returning officer, the returning officer shall for the purposes of this Part be deemed to be a respondent.
- (3) The petition shall be in the prescribed form, state the prescribed matters and be signed by the petitioner or all the petitioners if more than one, and shall be presented to the High Court in the Queen's Bench Division.
- (4) The petition shall be presented by delivering it to the prescribed officer or otherwise dealing with it in the prescribed manner; and the prescribed officer shall send a copy of it to the returning officer of the constituency to which the petition relates, who shall forthwith publish it in that constituency.
- (5) The petition shall be served as nearly as may be in the manner in which a writ of summons may be served or in such other manner as may be prescribed.

### **76 Time for presentation or amendment of parliamentary election petition.**

- (1) Subject to the provisions of this section, a parliamentary election petition other than a petition complaining of no return shall be presented within twenty-one days after

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the return of the member to whose election the petition relates has been made to the Clerk of the Crown.

- (2) If the petition questions the election or return upon an allegation of corrupt practices and specifically alleges a payment of money or other reward to have been made or promised by the member or on his account or with his privity since the time of the said return in pursuance or in furtherance of the alleged corrupt practice, it may be presented at any time within twenty-eight days after the date of the alleged payment or promise, whether or not any other petition against that person has been previously presented or tried.
- (3) A petition questioning the election or return upon an allegation of an illegal practice may, so far as respects that illegal practice, be presented—
  - (a) not later than the expiration of fourteen days after the day specified in sub-section (4); or
  - (b) if specifically alleging a payment of money or some other act to have since the day so specified been made or done by the member to whose election the petition relates or an agent of his, or with the privity of that member or his election agent, in pursuance or in furtherance of the alleged illegal practice, within twenty-eight days after the date of the payment or other act whether or not any other petition against that person has been previously presented or tried.
- (4) The said day is—
  - (a) that on which the returning officer receives the return and declarations as to election expenses made by the said member or his election agent; or
  - (b) where the return and declarations are received on different days, the last of those days; or
  - (c) where there is an authorised excuse for failing to make the return and declarations, the date of the allowance of the excuse, or if there was a failure as regards two or more of them, and the excuse was allowed at different times, the date of the allowance of the last excuse.
- (5) An election petition presented within the time limited by sub-section (1) or sub-section (2) may, for the purpose of questioning the election or return upon an allegation of an illegal practice, be amended with the leave of the High Court within the time within which a petition questioning the election upon the allegation of that illegal practice could be presented under sub-section (3).
- (6) Sub-sections (3), (4) and (5) shall apply notwithstanding that the act constituting the alleged illegal practice amounted to a corrupt practice and shall apply to a corrupt practice under paragraph 7 of the Ninth Schedule as if it were an illegal practice.
- (7) For the purposes of this section, an allegation that an election is avoided under section ninety-eight shall be deemed to be an allegation of corrupt practices, notwithstanding that the offences alleged are or include offences other than corrupt practices.

## 77 Conclusion of trial of parliamentary election petition.

- (1) At the conclusion of the trial of a parliamentary election petition, the election court shall determine whether the member whose election or return is complained of, or any and what other person, was duly returned or elected or whether the election was void, and shall forthwith certify in writing the determination to the Speaker, and the determination so certified shall be final to all intents and purposes:

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Provided that—

- (a) if the judges constituting the election court differ as to whether the member whose election or return is complained of was duly elected or returned, they shall certify that difference and the member shall be deemed to be duly elected or returned; and
  - (b) if they determine that the member was not duly elected or returned but differ as to the rest of the determination, they shall certify that difference and the election shall be deemed to be void.
- (2) Where any charge is made in the petition of any corrupt or illegal practice having been committed at the election the court shall, in addition to giving a certificate, and at the same time, make a report in writing to the Speaker as required by sections ninety-four and ninety-six and also stating whether corrupt or illegal practices have, or whether there is reason to believe that corrupt or illegal practices have, extensively prevailed at the election.
  - (3) The election court may at the same time make a special report to the Speaker as to any matters arising in the course of the trial an account of which ought, in the judgment of the court, to be submitted to the House of Commons.
  - (4) Every report sent to the Speaker under this section shall be signed by both judges of the election court and if the judges differ as to the subject of the report, they shall certify that difference and make no report on the subject on which they so differ.
  - (5) The House of Commons, on being informed by the Speaker of a certificate and any report of an election court, shall order the certificate and report, if any, to be entered in their Journals and shall give the necessary direction for confirming or altering the return, or for issuing a writ for a new election, or for carrying the determination into execution as the circumstances may require; and where the court make a special report, the House of Commons may make such order in respect of that report as they think proper.

## **78 Method of questioning local election.**

Any such local election as is conducted in accordance with the Local Elections Rules may be questioned on the ground that the person whose election is questioned—

- (a) was at the time of the election disqualified; or
- (b) was not duly elected;

or on the ground that the election was avoided by corrupt or illegal practices or on the grounds provided by section ninety-eight or section ninety-nine and shall not be questioned on any of those grounds except by an election petition.

## **79 Presentation and service of local election petition.**

- (1) A petition questioning any such local election as is referred to in section seventy-eight (in this Part referred to as a local election petition) may be presented either by four or more persons who voted as electors or had a right so to vote at the election or by a person alleging himself to have been a candidate at the election.
- (2) Any person whose election is questioned by the petition, and [<sup>F108</sup>, if the petition complains of his conduct, the Chief Electoral Officer] may be made a respondent to the petition.

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- (3) The petition shall be in the prescribed form signed by the petitioner and shall be presented to the High Court in accordance with rules of court.
- (4) The prescribed officer shall send a copy of the petition to the...<sup>F109</sup> clerk of the local authority for which the election was held who shall forthwith publish it in the area of that local authority.
- (5) A local election petition shall be served in the prescribed manner.

**F108** 1972 NI 13

**F109** 1972 NI 13

## **80 Time for presentation or amendment of local election petition.**

- (1) Subject to the provisions of this section, a local election petition shall be presented within twenty-one days after the day on which the election was held.
- (2) If the petition questions the election upon an allegation of corrupt practices and specifically alleges a payment of money or other reward to have been made or promised by a candidate elected at the election, or on his account or with his privity since the election, in pursuance or in furtherance of the alleged corrupt practice, it may be presented at any time within twenty-eight days after the date of the alleged payment or promise, whether or not any other petition against that person has been previously presented or tried.
- (3) If the petition questions the election upon an allegation of an illegal practice and specifically alleges a payment of money or some other act to have since the election been made or done by the person to whose election the petition relates, or an agent of his or with the privity of that person or his election agent, in pursuance or in furtherance of the alleged illegal practice, it may be presented at any time within twenty-eight days after the date of the alleged payment or other act, whether or not any other petition against that person has been previously presented or tried.
- (4) An election petition presented within the time limited by sub-section (1) or sub-section (2) may, for the purpose of questioning the election upon an allegation of an illegal practice, be amended with the leave of the High Court within the time within which a petition questioning the election upon the allegation of that illegal practice could be presented under sub-section (3).
- (5) Sub-sections (3) and (4) shall apply notwithstanding that the act constituting the alleged illegal practice amounted to a corrupt practice and shall apply to a corrupt practice under paragraph 7 of the Ninth Schedule as if it were an illegal practice.
- (6) For the purposes of this section, an allegation that an election is avoided under section ninety-eight shall be deemed to be an allegation of corrupt practices notwithstanding that the offences alleged are or include offences other than corrupt practices.

## **81 Conclusion of trial of local election petition.**

- (1) At the conclusion of the trial of a local election petition, the election court shall determine whether the person whose election is complained of, or any and what other person, was duly elected, or whether the election was void, and the determination shall be final to all intents and purposes.



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- (2) The election court shall forthwith certify in writing the determination to the High Court.
- (3) Where a charge is made in the petition of any corrupt or illegal practice having been committed at the election the court shall, in addition to giving a certificate and at the same time, make a report in writing to the High Court as required by sections ninety-four and ninety-six and also stating whether any corrupt or illegal practices have, or whether there is reason to believe that any corrupt or illegal practices have, extensively prevailed at the election in the area of the authority for which the election was held or in any electoral division thereof.
- (4) The election court may at the same time make a special report to the High Court as to any matters arising in the course of the trial, an account of which ought, in the judgment of the election court, to be submitted to the High Court.
- (5) A copy of any certificate or report made to the High Court shall be sent by the High Court to the Minister.
- (6) A copy of the said certificate shall be certified by the proper officer of the High Court to the...<sup>F110</sup> clerk of the authority for which the election was held.

**F110** 1972 NI 13

## **82 Consequences of avoidance of local election.**

- (1) Where on a local election petition the election of any person has been declared void, and no other person has been declared elected in his room, a new election shall be held to supply the vacancy in the same manner as on a casual vacancy.
- (2) Where a candidate who has been elected to a corporate office, is by a certificate of an election court or a decision of the High Court declared not to have been duly elected, acts done by him in execution of the office before the time when the certificate or decision is certified to the...<sup>F111</sup> clerk of the local authority for which the election was held shall not be invalidated by reason of that declaration.

**F111** 1972 NI 13

## **83 Special case for determination of Court of Appeal.**

- (1) If, on the application of any party to a petition made in the prescribed manner to the High Court, it appears to the High Court that the case raised by the petition can be conveniently stated as a special case, the High Court may direct it to be stated accordingly.
- (2) If it appears to the election court on the trial of an election petition that any question of law as to the admissibility of evidence or otherwise requires further consideration by the [<sup>F112</sup> Court of Appeal], the election court may postpone the granting of a certificate until the question has been determined by the [<sup>F112</sup> Court of Appeal], and for this purpose may reserve the question by stating a case for the decision of the [<sup>F112</sup> Court of Appeal].
- (3) A special case under sub-section (1) or sub-section (2) shall be stated to and heard and determined by the [<sup>F112</sup> Court of Appeal] in accordance with rules of court.

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As respects a parliamentary election petition, the proper officer of the [<sup>F112</sup> Court of Appeal] shall certify to the Speaker the decision of the court in reference to the special case.

As respects a local election petition, a statement of the decision on the special case shall be sent by the proper officer of the [<sup>F112</sup> Court of Appeal] to the Minister and shall also be certified by that officer to the...<sup>F113</sup> clerk of the authority for which the election was held.

- (4) Any decision of the [<sup>F112</sup> Court of Appeal] on a case stated under sub-section (1) shall be final.

*Subs.(5) rep. by 1978 c.23*

**F112** 1978 c.23

**F113** 1972 NI 13

## **84 Withdrawal of petition.**

- (1) A petitioner shall not withdraw an election petition without the leave of the election court or High Court on special application, made in the prescribed manner and at the prescribed time and place.
- (2) The application shall not be made until the prescribed notice of the intention to make it has been given in the constituency or local government electoral area to which the petition relates.
- (3) Where there are more petitioners than one, the application shall not be made except with the consent of all the petitioners.
- (4) If a petition is withdrawn the petitioner shall be liable to pay the costs of the respondent.

*Ss. 85#90 rep. by SI 2001/417*

## **91 Costs of petition.**

- (1) All costs of and incidental to the presentation of an election petition and the proceedings consequent thereon, except such as are by this Act otherwise provided for, shall be defrayed by the parties to the petition in such manner and in such proportions as the election court or High Court may determine; and in particular any costs which in the opinion of the election court or High Court have been caused by vexatious conduct, unfounded allegations or unfounded objections on the part either of the petitioner or of the respondent, and any needless expense incurred or caused on the part of the petitioner or respondent, may be ordered to be defrayed by the parties by whom it has been incurred or caused whether or not they are on the whole successful.
- (2) If a petitioner neglects or refuses, in the case of a petition questioning a parliamentary election or return, for six months, and in the case of a local election petition, for three months, after demand to pay to any person summoned as a witness on his behalf or to the respondent any sum certified to be due to him for his costs, and the neglect or refusal is, within one year after the demand, proved to the satisfaction of the High Court, every person who under this Act entered into a recognisance relating to the petition shall be held to have made default in the recognisance, and the prescribed

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officer shall thereupon certify the recognisance to be forfeited and any sum payable thereunder shall be dealt with under section twenty of the Administration of Justice Act (Northern Ireland), 1954 .

## 92 Further provision as to costs of petition.

- (1) Where upon the trial of an election petition it appears to the election court that a corrupt practice in reference to the election has not been proved to have been committed by or with the knowledge and consent of the respondent to the petition, and that the respondent took all reasonable means to prevent corrupt practices being committed on his behalf, the court may make an order or orders with respect to the payment either of the whole or such part of the costs of the petition as the court may think right as provided by sub-section (2) or (4).<sup>F114</sup> In respect of a petition relating to a local election, this subsection shall have effect as if the reference to subsection (2) were omitted.]
- (2) If it appears to the court that corrupt practices extensively prevailed in reference to the election, the court may order the whole or part of the costs to be paid, in relation to a parliamentary election, by the constituency for which the election was held,<sup>F114</sup> . . . .
- (3) The Ministry of Finance<sup>F115</sup> shall pay any costs ordered to be paid by a constituency under sub-section (2) and shall obtain re-payment of the amount so paid from the [<sup>F116</sup> district council] in which the constituency is wholly or partly situate; and where more than one council is concerned the said amount shall be repaid by the councils concerned in such proportions as the Ministry of Finance<sup>F115</sup> shall direct. Any amount payable under this sub-section—  
*Para.(a) rep. by 1972 NI 13*
  - (b) by [<sup>F116</sup> a district council], shall be paid out of the rate or fund out of which the general expenses of the council are paid;  
and if not paid shall be recoverable summarily as a civil debt due to the Ministry of Finance<sup>F115</sup>.
- (4) If it appears to the court that any person or persons is or are proved to have been extensively engaged (whether by providing money or otherwise) in corrupt practices, or to have encouraged or promoted extensive corrupt practices in reference to the election, the court may, after giving that person or those persons an opportunity of being heard by counsel or solicitor and examining and cross-examining witnesses to show cause why the order should not be made, order the whole or part of the costs to be paid by that person, or those persons or any of them, and may order that if the costs cannot be recovered from one or more of those persons they shall be paid by some other of those persons or by either of the parties to the petition.
- (5) Where any person appears to the court to have been guilty of a corrupt or illegal practice, the court may, after giving that person an opportunity of making a statement to show why the order should not be made, order the whole or any part of the costs of or incidental to any proceeding before the court in relation to the said offence or to the said person to be paid by the said person to such person or persons as the court may direct.

**F114** SI 1987/168

**F115** Now Treasury, SI 1973/2163

**F116** 1972 NI 13

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### 93 Jurisdiction.

- (1) Subject to the provisions of this Act and of the rules made under it, the principles, practice and rules on which committees of the House of Commons of the Parliament of the United Kingdom used to act in dealing with election petitions shall be observed, so far as may be, by the High Court and election courts in relation to election petitions; and in particular the principles and rules with regard to agency and evidence and to a scrutiny, and to the declaring any person elected in the room of any other person declared not to have been duly elected, shall be observed, as far as may be, in relation to a local election petition as in relation to a parliamentary election petition.
- (2) The High Court shall, subject to the provisions of this Act, have the same powers, jurisdiction and authority with respect to an election petition and the proceedings thereon as if the petition were an ordinary action within its jurisdiction.
- (3) The duties to be performed by the prescribed officer under this Part shall be performed by such officer of the<sup>F117</sup> Supreme Court as the Lord Chief Justice may determine, and there may be awarded to such officer, in addition to his salary payable apart from the provisions of this sub-section, such remuneration for the performance of his duties in relation to elections under this Part as the Lord Chief Justice with the consent of the Ministry of Finance<sup>F118</sup> may determine.

**F117** prosp. subst. by 2005 c. 4

**F118** Now Minister for Civil Service, SI 1973/2163

### 94 Report as to candidate guilty of a corrupt or illegal practice.

- (1) The report of an election court under section seventy-seven or section eighty-one shall state whether any corrupt or illegal practice has or has not been proved to have been committed by or with the knowledge and consent of any candidate at the election, and the nature of the corrupt or illegal practice.
- (2) For the purposes of sections ninety-five and ninety-six, if it is reported that a corrupt or illegal practice was committed with the knowledge and consent of a candidate, he shall be treated as having been reported personally guilty of that corrupt or illegal practice.
- (3) The report shall also state whether any of the candidates has been guilty by his agents of any corrupt or illegal practice in reference to the election; but if a candidate is reported guilty by his agents of treating, undue influence or any illegal practice, and the court further reports that the candidate has proved to the court—
  - (a) that no corrupt or illegal practice was committed at the election by the candidate or his election agent and the offences mentioned in the report were committed contrary to the orders and without the sanction or connivance of the candidate or his election agent; and
  - (b) that the candidate and his election agent took all reasonable means for preventing the commission of corrupt and illegal practices at the election; and
  - (c) that the offences mentioned in the report were of a trivial, unimportant and limited character; and
  - (d) that in all other respects the election was free from any corrupt or illegal practice on the part of the candidate and of his agents;

then the candidate shall not be treated for the purposes of section ninety-five as having been reported guilty by his agents of the offences mentioned in the report.

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- (4) The provisions of sections ninety-five and ninety-six as to the consequences of the report that a candidate was guilty by his agents of a corrupt or illegal practice shall have effect subject to the express provisions of this Act relating to particular acts which are declared to be corrupt or illegal practices.

**95 Avoidance of election and incapacity of candidate reported guilty of a corrupt or illegal practice.**

- (1) If a candidate who has been elected is reported by an election court personally guilty or guilty by his agents of any corrupt or illegal practice his election shall be void.
- (2) A candidate at a parliamentary election shall also be incapable from the date of the report of being elected to and sitting in the House of Commons for the constituency for which the election was held or any constituency which includes the whole or any part of the area of the first-mentioned constituency as constituted for the purposes of the election—
- (a) if reported personally guilty of a corrupt practice, for ten years;
  - (b) if reported guilty by his agents of a corrupt practice or personally guilty of an illegal practice, for seven years;
  - (c) if reported guilty by his agents of an illegal practice, during the Parliament for which the election was held.

*Subs. (3) rep. by SI 2001/417*

**96 Provisions applying to all persons reported personally guilty of a corrupt or illegal practice.**

- (1) The report of the election court under section seventy-seven or section eighty-one shall state the names of all persons, if any, who have been proved at the trial to have been guilty of any corrupt or illegal practice and whether they have been furnished with certificates of indemnity, but, as respects someone who is not a party to the petition nor a candidate on behalf of whom the seat or office is claimed by the petition, the election court shall first cause notice to be given to him, and if he appears in pursuance of the notice, shall give him an opportunity of being heard by himself and of calling evidence in his defence to show why he should not be so reported.

It shall be the duty of<sup>F119</sup> [<sup>F120</sup> the Director of Public Prosecutions for Northern Ireland] to obey any directions given to him by the election court with respect to any person to whom such a notice is given.

- (2) The report shall be laid before the Attorney-General with a view to his instituting or directing a prosecution against such persons as have not received certificates of indemnity, if the evidence should, in his opinion, be sufficient to support a prosecution.

- [<sup>F121</sup>(3) Subject to the provisions of subsection (3A) and section 113(2) to (6), a candidate or other person reported by an election court personally guilty of a corrupt or illegal practice—

- (a) shall during the relevant period specified in subsection (4) be incapable of—
  - (i) being registered as an elector or voting at any local election in Northern Ireland, or
  - (ii) holding any elective office; and
- (b) if already holding any such office shall vacate it as from the date of report.

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- (3A) The incapacity incurred by subsection (3)(a)(i) applies to a candidate or other person reported personally guilty of a corrupt practice under paragraph 4 of Schedule 9 (personation) or of an illegal practice under paragraph 12A of Schedule 9 (other voting offences).
- (4) For the purposes of subsection (3) the relevant period is the period beginning with the date of the report and ending—
- (a) in the case of a person reported personally guilty of a corrupt practice, five years after that date, or
  - (b) in the case of a person reported personally guilty of an illegal practice, three years after that date.]
- [<sup>F122</sup>(5) In respect of the report of an election court at the trial of a local election petition, this section shall have effect subject to the following amendments:
- (a) in subsection (1) the words from and whether to indemnity and from It shall be the duty to is given shall be omitted; and
  - (b) for subsection (2) there shall be substituted:
 

“(2) The report shall be laid before the Director of Public Prosecutions for Northern Ireland.”]

**F119** continue to am. 2002 c. 26

**F120** 1972 NI 1

**F121** SI 2001/417

**F122** SI 1987/168

## 97 Disciplinary action on report of corrupt practice.

- (1) Where a justice of the peace is reported by an election court to have been guilty of any corrupt practice in reference to an election, whether he has obtained a certificate of indemnity or not, it shall be the duty of<sup>F123</sup> [<sup>F124</sup> the Director of Public Prosecutions for Northern Ireland] to report the case to the Governor with such evidence as may have been given of the corrupt practice.
- (2) Where a barrister-at-law, solicitor or any person who belongs to any profession the admission to which is regulated by law is reported by an election court to have been guilty of any corrupt practice in reference to an election, whether he has obtained a certificate of indemnity or not, it shall be the duty of<sup>F123</sup> [<sup>F124</sup> the Director of Public Prosecutions for Northern Ireland] to bring the matter before the Inn of Court, the Incorporated Law Society of Northern Ireland or tribunal having power to take cognizance of any misconduct of the person in his profession; and such body or tribunal may deal with him as if the corrupt practice were misconduct by him in his profession.
- (3) If it appears to an election court that a person holding a licence or certificate under the Licensing Acts (Northern Ireland) has knowingly suffered any bribery or treating in reference to any election to take place upon his licensed premises,—
  - (a) the court shall, after affording him such rights as are conferred on those about to be reported under sub-section (1) of section ninety-six, report the fact; and
  - (b) whether that person has obtained a certificate of indemnity or not, it shall be the duty of [<sup>F124</sup> the Director of Public Prosecutions for Northern Ireland] to

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bring the report before the licensing court from whom, or on whose certificate, that person obtained his licence; and

- (c) the licensing court shall cause the report to be entered in the proper register of licences, and on any application for the renewal of the licence or certificate the licensing court shall take the entry into consideration and may make it a ground for refusing the application.

[<sup>F125</sup>(4) In respect of the report of an election court at the trial of a local election petition, subsections (1), (2) and (3) shall have effect as if for the words from whether to for Northern Ireland to, in each place where those words occur, there were substituted the court shall.]

**F123** continue to am. 2002 c. 26

**F124** 1972 NI 1

**F125** SI 1987/168

## **98 Avoidance of election for general corruption, etc.**

- (1) Where on an election petition it is shown that corrupt or illegal practices or illegal payments, employments or hirings committed in reference to the election for the purpose of promoting or procuring the election of any person thereat have so extensively prevailed that they may be reasonably supposed to have affected the result, his election, if he has been elected, shall be void and he shall be incapable of being elected to fill the vacancy or any of the vacancies for which the election was held.
- (2) An election shall not be liable to be avoided otherwise than under this section by reason of general corruption, bribery, treating or undue influence.
- (3) A local election may be questioned on the ground that it is avoided under this section.

## **99 Avoidance of election for employing corrupt agent.**

- (1) If at a parliamentary or local election a candidate or his election agent personally engages as a canvasser or agent for the conduct or management of the election any person whom he knows or has reasonable grounds for supposing to be subject to an incapacity to vote at the election by reason of his having been convicted or reported guilty of any corrupt or illegal practice within the meaning of this Act, the candidate shall be incapable of being elected to fill the vacancy or any of the vacancies for which the election is held.
- (2) A local election may be questioned on the ground that the person whose election is questioned was, at the time of the election, by virtue of this section incapable of being elected; but a vote given for such a person at either a parliamentary or local election shall not, by reason of his incapacity under this section, be deemed to be thrown away so as to entitle another candidate to be declared elected, unless given at a poll consequent on the decision of an election court that he was so incapable.

## **100 Votes to be struck off for corrupt or illegal practices.**

- (1) Where, on a parliamentary election petition claiming the seat for any person, a candidate is proved to have been guilty by himself, or by any person on his behalf, of bribery, treating or undue influence in respect of any person who voted at the election there shall, on a scrutiny, be struck off from the number of votes appearing to have

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been given to the candidate one vote for every person who voted at the election and is proved to have been so bribed, treated or unduly influenced.

- (2) If any person who is guilty of a corrupt or illegal practice or of illegal payment, employment or hiring at an election votes at the election, his vote shall be void.
- (3) If any person who is subject under any enactment relating to corrupt or illegal practices to an incapacity to vote at a parliamentary election or an election to any corporate office votes at that election, his vote shall be void.

### **101 Service of notices, etc.**

Any summons, notice or other document required by any provision of this Part to be served on any person for the purposes of any proceeding in the High Court or an election court, may be served—

- (a) in any such manner as is referred to in section twenty-four of the Interpretation Act (Northern Ireland), 1954 ; or
- (b) in such other manner as the court having seizin of the proceeding may direct.

### **102 Rules of court.**

- (1) The authority having for the time being power to make rules of court may make rules for the purposes of this Part and such rules may (without prejudice to their generality) provide—
  - (a) that the rules for the time being in force with respect to the costs allowable in actions, causes and matters in the High Court are to apply, subject to any necessary modifications, in relation to petitions and other proceedings under this Part;
  - (b) that in any such proceedings under this Act costs are not to be allowed on any higher scale than would be allowed on the higher scale as between solicitor and client under the rules in force as aforesaid.
- (2) Where any costs or other sums are, under the order of an election court or otherwise under this Part, to be paid by any person, those costs or sums shall be a simple contract debt due from that person to the person or persons to whom they are to be paid, and if payable to the Ministry of Finance<sup>F126</sup> shall be a debt due to Her Majesty, and in either case may be recovered accordingly.
- (3) In this Part and in the Eighth Schedule the expression prescribed means prescribed by rules of court.

**F126** Now Treasury, SI 1973/2163

## **PART X**

### **ELECTORAL MISDEMEANOURS**

### **103 Electoral misdemeanours.**

- (1) A person who contravenes any provision of this Act shall except where the contrary intention appears be guilty of an electoral misdemeanour.



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- (2) The electoral misdemeanours specified—
- (a) in Part I of the Ninth Schedule shall be corrupt practices;
  - (b) in Part II of the Ninth Schedule shall be illegal practices;
  - (c) in Part III of the Ninth Schedule shall be electoral offences.

#### **104 Giving of leave of absence to employees to record their votes.**

- (1) Nothing in this Act shall make it illegal for an employer to permit electors or proxies for electors to absent themselves from his employment for a reasonable time for the purpose of voting at an election, without having any deduction from their salaries or wages on account of their absence, if the permission is, so far as practicable without injury to the business of the employer, given equally to all persons alike who are at the time in his employment and if the permission is not given with a view to inducing any person to record his vote for any particular candidate at the election, and is not refused to any person for the purpose of preventing him from recording his vote for any particular candidate at the election.
- (2) This section shall not be construed as making illegal any act which would not be illegal apart from this section.

#### **105 Prosecution and trial of electoral misdemeanours.**

- (1) A corrupt practice shall be an indictable offence and shall not be triable before a county court; but, subject to sub-section (2), a person charged with a corrupt practice may if he so consents be tried summarily<sup>F127</sup> in accordance with Articles 45 and 46 of the Magistrates' Courts (Northern Ireland) Order 1981]. A person charged with personation shall not be convicted by a court of summary jurisdiction or, save by an election court, be committed for trial except on the evidence of not less than two credible witnesses.
- (2) A person shall not be summarily prosecuted for any corrupt practice where there may be occasion to exercise the powers conferred by sub-section (2) or sub-section (3) of section one hundred and thirteen.
- (3) A person charged with an illegal practice shall be tried summarily; and on a prosecution for an illegal practice it shall be sufficient to allege that the person charged was guilty of an illegal practice.
- (4) Any person charged with a corrupt practice may, if the circumstances warrant such a finding, be found guilty of an illegal practice (which misdemeanour shall for that purpose be an indictable offence); and any person charged with an illegal practice may be found guilty of that misdemeanour notwithstanding that the act constituting the misdemeanour amounted to a corrupt practice, and a person charged with illegal payment, illegal employment or illegal hiring under paragraph 29, paragraph 30 or paragraph 31 of the Ninth Schedule may be found guilty of that offence notwithstanding that the act constituting the offence amounted to a corrupt or illegal practice.
- (5) A person charged with an electoral offence other than the offences specified in paragraphs 24 to 26 of the Ninth Schedule shall be tried summarily and a person charged with any of the electoral offences specified in paragraphs 24 to 26 of that Schedule may be tried either on indictment or summarily.

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- (6) Subject to sub-section (3) of section one hundred and eight, an election court may in addition to any other functions conferred by this Act exercise for the purposes of this Act the powers of a court of summary jurisdiction.
- (7) In this section the expression indictment includes criminal information.
- [<sup>F128</sup>(8) In respect of the prosecution and trial of an electoral misdemeanour committed or alleged to have been committed at a local election, this section shall have effect subject to the following amendments:
- (a) in subsection (1) the words, subject to subsection (2), and from A person charged with personation to the end of the subsection shall be omitted;
  - (b) subsections (2) and (6) shall be omitted; and
  - (c) in subsections (5) for the words the offences specified in paragraphs 24 to 26 there shall be substituted the offences specified in paragraph 26(2) and for the words charged with any of the electoral offences specified in paragraphs 24 to 26 there shall be substituted to whom section 111(2A)(c)(i) applies charged with the offence specified in paragraph 26(2).]

F127 1981 NI 26  
F128 SI 1987/168

## 106 Prosecution of offences disclosed on election petition.

- (1) [<sup>F129</sup>[<sup>F130</sup> The Director of Public Prosecutions for Northern Ireland] shall obey any direction given to him by an election court with respect to the prosecution by him of offenders, and if it appears to him that any person who has not received a certificate of indemnity has been guilty of a corrupt or illegal practice, he shall, without any such direction, prosecute that person for that offence before the election court, or if he thinks it expedient in the interests of justice, before any other competent court.
- (2) Where a person prosecuted before an election court appears before the court, the court shall proceed to try him summarily unless the court thinks it expedient in the interests of justice that he should be tried before some other court:
- Provided that in the case of a corrupt practice, the court before proceeding to try him summarily shall give him the option of being tried by a jury.
- (3) The Summary Jurisdiction Acts shall, so far as is consistent with the tenor thereof, apply to the prosecution of an offence summarily before an election court:
- Provided that no appeal shall lie against a conviction by an election court.
- (4) Where—
- (a) the person prosecuted does not appear before the court; or
  - (b) the court thinks it expedient in the interests of justice that he should be tried before some other court; or
  - (c) the person prosecuted elects under sub-section (2) to be tried by a jury;
- and the court is of opinion that the evidence is sufficient to put that person upon his trial for the offence, the court shall order that person to be prosecuted either on indictment or before a court of summary jurisdiction, as the case may require, for the offence and thereupon shall proceed as directed by sub-section (5), sub-section (6), sub-section (7) or sub-section (8):

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Provided that, except where the accused has elected to be tried by a jury, a corrupt practice shall not for the purposes of the following provisions of this section be deemed to be an indictable offence if the election court think that it should be prosecuted summarily.

- (5) The election court may name the court before whom the person is to be prosecuted and for all purposes preliminary to and of and incidental to the prosecution the offence shall be deemed to have been committed within the jurisdiction of the court so named.
- (6) If the accused is present before the court and the offence is an indictable offence, the enactments relating to charges before justices against persons for indictable offences shall, so far as is consistent with the tenor thereof, apply and the court shall commit him for trial.
- (7) If the accused is present before the court and the offence is not an indictable offence, the election court shall order him to be brought before the court of summary jurisdiction before whom he is to be prosecuted or cause him to give bail to appear before that court of summary jurisdiction.
- (8) If the accused is not present before the court, the court shall as circumstances require issue a summons for his attendance, or a warrant to apprehend him and bring him before a court of summary jurisdiction.
- (9) The court of summary jurisdiction before whom he attends or is brought shall—
  - (a) if the offence is an indictable offence, on proof only of the summons or warrant and the identity of the accused, commit him for trial; and
  - (b) if the offence is not an indictable offence, proceed to hear the case or, if the court of summary jurisdiction is not the court before whom he is directed to be prosecuted, order him to be brought before that court.

[<sup>F131</sup>(10) This section shall not apply to electoral misdemeanours committed or alleged to have been committed at a local election.]

**F129** continue to am. 2002 c. 26

**F130** 1972 NI 1

**F131** SI 1987/168

## **107 Power to except innocent act from being illegal practice, payment, employment or hiring.**

- (1) An application for relief under this section may be made to the High Court or an election court or else, if in respect of a payment made in contravention of sub-section (1) or (2) of section forty-three to the county court.

[<sup>F132</sup>(1A) Where a person makes an application under this section for relief in respect of an act or omission at a local election, he shall notify the Director of Public Prosecutions for Northern Ireland of the application and the Director or his assistant or any barrister or solicitor duly appointed as the Director's representative may attend the hearing of the application and make representations at the hearing in respect of it.]

- (2) If the court is satisfied—

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- (a) that any act or omission of any person would but for this section by reason of being in contravention of this Act be an illegal practice, payment, employment or hiring;
- (b) that the act or omission arose from inadvertence or from accidental miscalculation or from some other reasonable cause of a like nature, and in any case did not arise from any want of good faith; and
- (c) that such notice of the application has been given in the constituency or, as the case may be, the area of the local authority for which the election was held, as to the court seems fit;

and in the circumstances it seems to the court to be just that either that or any other person should not be subject to any of the consequences under this Act of the act or omission, the court may make an order allowing the act or omission to be an exception from the provisions of this Act making it an illegal practice, payment, employment or hiring and thereupon no person shall be subject to any of the consequences under this Act of the said act or omission.

- (3) An appeal shall lie to the High Court from any order of the county court made under this section.

F132 SI 1987/168

## 108 Penalties for corrupt practices.

- (1) A person convicted on indictment of the corrupt practice of personation or of attempting or conspiring to commit that corrupt practice or of aiding, abetting, counselling or procuring the commission of that corrupt practice, shall be liable to imprisonment for a term not exceeding two years or to<sup>F133</sup> an unlimited fine] or to both such imprisonment and such fine.
- (2)<sup>F134</sup> A person convicted on indictment of any corrupt practice other than those referred to in sub-section (1) shall be liable to imprisonment for a term not exceeding one year or to<sup>F133</sup> an unlimited fine] or to both such imprisonment and such fine.
- (3) A person shall be liable on summary conviction of any corrupt practice—
  - (a) by an election court, to imprisonment for a term not exceeding six months or to a fine not exceeding two hundred pounds;
  - (b) by a court of summary jurisdiction, to imprisonment for a term not exceeding three months or to a fine not exceeding one hundred pounds;
 or in either case to both such imprisonment and such fine.
- <sup>F135</sup>(4) Subsections (1) to (3) above shall not apply to a person convicted of a corrupt practice at a local election and such a person shall be liable—
  - (a) on conviction on indictment—
    - (i) in the case of a corrupt practice under paragraph 4 of Schedule 9 or paragraphs 8 or 9 of that Schedule in relation to the offence in paragraph 4, to imprisonment for a term not exceeding two years, or to a fine, or to both;
    - (ii) in any other case, to imprisonment for a term not exceeding one year, or to a fine, or to both;
  - (b) on summary conviction, to imprisonment for a term not exceeding 6 months, or to a fine not exceeding the statutory maximum, or to both.]

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**F133** 1984 NI 3

**F134** mod. by SI 1985/454

**F135** SI 1987/168

## 109 Penalty for illegal practices.

A person guilty of an illegal practice shall be liable to a fine not exceeding one hundred pounds.<sup>F136</sup> In respect of an illegal practice at a local election this section shall have effect as if for the words one hundred pounds there were substituted level 5 on the standard scale.]

**F136** SI 1987/168

## 110 Compensation where charge of personation is unjustly made or not prosecuted.

- (1) Where a person is arrested under Rule 44 of the Parliamentary Election Rules<sup>F137</sup> . . . and the resident magistrate who conducts the preliminary investigation of or deals summarily with the charge of personation is satisfied that the person charged is really and in truth the person in whose name he applied for a ballot paper, tendered his vote or voted and that the charge of personation has been made against him without reasonable or just cause, or if the agent by whom the charge was made (or someone on behalf of the agent) does not appear before the resident magistrate to support the charge, then the resident magistrate shall make an order in writing on the said agent to pay to the person charged, if he consents to accept it, any sum not exceeding ten or less than five pounds by way of damages and costs.
- (2) If a sum ordered to be paid under sub-section (1) is not paid within twenty-four hours after the order has been made, that sum shall be levied by warrant<sup>F138</sup> issued by a lay magistrate] acting for the county or county borough<sup>F139</sup> where the person charged with personation was arrested, by distress and sale of the goods and chattels of the agent by whom the charge was made or, if the same are insufficient shall be levied in like manner on the goods and chattels of the candidate by whom the said agent was appointed; and if the said sum is not paid or levied as aforesaid, the person to whom it was ordered to be paid may recover it from the said agent or candidate by civil bill or by action in the High Court.
- (3) If the person charged has declared to the resident magistrate his consent to accept the sum awarded under sub-section (1) by way of damages and costs, and if the whole amount of such sum has been paid or tendered to that person, then in that case, but not otherwise, the said agent, candidate and every other person shall be released from all actions and proceedings, civil and criminal, for or in respect of the charge against and the apprehension of the person charged.

**F137** SI 1985/454

**F138** 2002 c.26

**F139** A JP now acts for a county ct. division, 1978 c.23

## 111 Penalties for electoral offences by officers and other persons.

- (1) A person guilty of an electoral offence shall, subject to sub-section (2), be liable—

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- (a) on conviction on indictment, to imprisonment for a term not exceeding six months or to<sup>F140</sup> an unlimited fine];
  - (b) on summary conviction, to imprisonment for a term not exceeding three months or to a fine not exceeding fifty pounds;
- or in either case to both such imprisonment and such fine.
- (2) Where any officer or person on whom any functions are conferred [<sup>F141</sup> or delegated] by or under this Act is convicted of an electoral offence consisting of or involving misconduct or wilful negligence in the course of the performance of any of those functions, sub-section (1) shall in relation to that officer or person have effect as if the maximum penalties thereby respectively provided were doubled.
- <sup>F142</sup>(2A) Subsections (1) and (2) above shall not apply to a person convicted of an electoral offence at a local election or in connection with the registration of local electors and such a person shall be liable—
- (a) in the case of an offence under paragraph 24, 24A, 25, 28, 29, 30, 31 or 32A of Schedule 9, on summary conviction to a fine not exceeding level 5 on the standard scale;
  - (b) in the case of an offence under paragraph 26(1) or 33 of Schedule 9, on summary conviction to a fine not exceeding level 3 on the standard scale;
  - (c) in the case of an offence under paragraph 26(2) of Schedule 9—
    - (i) if the person guilty of the offence is the Chief Electoral Officer or any person to whom functions are delegated by him under this Act, a presiding officer or a clerk appointed to assist in taking the poll, counting the votes or assisting at the proceedings in connection with the issue or receipt of postal ballot papers, on conviction on indictment to a fine, or to imprisonment for a term not exceeding 2 years, or to both, or on summary conviction, to a fine not exceeding the statutory maximum, or to imprisonment for a term not exceeding 6 months, or to both;
    - (ii) if the person guilty of the offence is any other person, on summary conviction to a fine not exceeding level 5 on the standard scale or to imprisonment for a term not exceeding 6 months, or to both;
  - (d) in the case of an offence under paragraph 27 of Schedule 9, on summary conviction to a fine not exceeding level 5 on the standard scale or to imprisonment for a term not exceeding 6 months;
  - (e) in the case of an offence under paragraph 32 of Schedule 9, on summary conviction to a fine not exceeding level 4 on the standard scale.]
- (3) [<sup>F143</sup> The Chief Electoral Officer or any person to whom functions are delegated by him under this Act,] the Clerk of the Crown, or a postmaster or his deputy, shall not be liable for any breach of any duty imposed on him by or under this Act to any penalty at common law and no action for damages shall lie in respect of the breach by him of any such duty.<sup>F142</sup> In respect of a breach of official duty at a local election, this subsection shall have effect as if for the words the Clerk of the Crown there were substituted any presiding officer, any person either appointed to assist in the conduct of the election or who so assists in the course of his employment.]

**F140** 1984 NI 3

**F141** 1972 NI 13

**F142** SI 1987/168

*Status: Point in time view as at 12/02/2009.*

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**F143** 1972 NI 13

## **112 Incapacities resulting from convictions for corrupt or illegal practices.**

- [<sup>F144</sup>(1) Subject to subsection (1A), a person convicted of a corrupt or illegal practice—
- (a) shall, during the relevant period specified in subsection (1B), be incapable of—
    - (i) being registered as an elector or voting at any local election in Northern Ireland, or
    - (ii) holding any elective office; and
  - (b) if already holding any such office shall vacate it subject to and in accordance with subsections (1C) and (1D).
- (1A) The incapacity imposed by subsection (1)(a)(i) applies only to a person convicted of a corrupt practice under paragraph 4 of Schedule 9 (personation) or of an illegal practice under paragraph 12A of Schedule 9 (other voting offences).
- (1B) For the purposes of subsection (1)(a) the relevant period is the period beginning with the date of the conviction and ending—
- (a) in the case of a person convicted of a corrupt practice, five years after that date, or
  - (b) in the case of a person convicted of an illegal practice, three years after that date;
- except that if (at any time within that period of five or three years) a court determines on an appeal by that person against the conviction that it should not be upheld, the relevant period shall end at that time instead.
- (1C) Where subsection (1)(b) applies to any person, he shall (subject to subsection (1D)) vacate the office in question at the appropriate time for the purposes of this section, namely—
- (a) the end of the period which is the period prescribed by law within which notice of appeal may be given, or an application for leave to appeal may be made, by him in respect of the conviction, or
  - (b) if (at any time within that period) that period is extended—
    - (i) the end of the period as so extended, or
    - (ii) the end of the period of three months beginning with the date of the conviction,whichever is the earlier.
- (1D) If (before the appropriate time mentioned in subsection (1C)) notice of appeal is given, or an application for leave to appeal is made, by such a person in respect of the conviction, he shall vacate the office in question at the end of the period of three months beginning with the date of the conviction unless—
- (a) such an appeal is dismissed or abandoned at any earlier time (in which case he shall vacate the office at that time), or
  - (b) at any time within that period of three months the court determines on such an appeal that the conviction should not be upheld (in which case the office shall not be vacated by him).

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- (1E) Where such a person vacates an office in accordance with subsection (1C) or (1D), no subsequent determination of a court that his conviction should not be upheld shall entitle him to resume the office.
- (1F) If a person convicted of a corrupt or illegal practice has already been elected to any elective office, he shall (in addition to being subject to the incapacities mentioned in subsection (1)(a) above) be suspended from performing any of the functions of that office, during the period of suspension specified in subsection (1G).
- (1G) For the purposes of subsection (1F), the period of suspension is the period beginning with the date of the conviction and ending with—
- (a) the date on which the office is vacated in accordance with subsection (1C) or (1D), or
  - (b) where subsection (1D)(b) applies, the date on which the court determines that the conviction should not be upheld.
- (1H) Any incapacities or other requirement applying to a person by virtue of subsection (1F) applies in addition to any punishment imposed under section 108 or 109; but each of those subsections has effect subject to section 113.]
- (2) Where a person holding a licence or certificate under the Licensing Acts (Northern Ireland) is convicted of the corrupt practice of bribery or treating and it appears to the court convicting him that the corrupt practice was committed on his licensed premises, that court shall direct the conviction to be entered in the proper register of licences, and on any application for the renewal of the licence or certificate the licensing court shall take the entry into consideration and may make it a ground for refusing the application.

*Subs.(3) amends s.2 of 1889 c.69*

**F144** SI 2001/417

### **113 Mitigation and remission of incapacities.**

- (1) Where a person is convicted of the corrupt practice of incurring or aiding, abetting, counselling or procuring any other person to incur any expenses in contravention of section forty-one or of knowingly making the declaration required by sub-section (5) of that section falsely or of any illegal practice, the court before whom he is convicted may, if it thinks fit in the special circumstances, mitigate or wholly remit any such incapacity as is imposed by section one hundred and twelve.
- (2) Where any person is subject to any incapacity by virtue of the report of an election court or of election commissioners, and he or some other person in respect of whose acts the incapacity was imposed is on a prosecution acquitted of any of the matters in respect of which the incapacity was imposed, the court may order that the incapacity shall thenceforth cease so far as it is imposed in respect of those matters.
- (3) Where any person who is subject to any incapacity as aforesaid is on a prosecution convicted of any such matters as aforesaid, no further incapacity shall be taken to be imposed by reason of the conviction, and the court shall have the like power, if any, to mitigate or remit for the future the incapacity in respect of the matters of which he is convicted, as if the incapacity had been imposed by reason of the conviction.
- (4) A court exercising any of the powers conferred by sub-sections (2) and (3) shall make an order declaring how far, if at all, the incapacities imposed by virtue of the relevant



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report remain unaffected by the exercise of the said power, and that order shall be conclusive for all purposes.

- (5) Where a person convicted of a corrupt or illegal practice is subsequently reported by an election court to have been guilty thereof, no further incapacity shall be imposed on him under this Act by reason of the report.
- (6) Where any person is subject to any incapacity by virtue of a conviction or of the report of an election court, and any witness who gave evidence against that person upon the proceeding for the conviction or report is convicted of perjury in respect of that evidence, the incapacitated person may apply to the High Court, and that court, if satisfied that the conviction or report so far as respects that person was based upon perjury, may order that the incapacity shall thenceforth cease.

#### **114 Corrupt and illegal practices committed by agents.**

- (1) A candidate shall not be liable nor shall his election be avoided—
  - (a) for any corrupt practice specified in paragraph 7 of the Ninth Schedule committed by an agent of his unless it can be shown that the candidate has authorised or consented to the committing of the corrupt practice by such agent; or
  - (b) for any illegal practice specified in paragraphs 10, 11 and 12 of the Ninth Schedule committed by an agent of his; or
  - (c) for any illegal practice specified in paragraph 19 of the Ninth Schedule committed by an agent of his other than his election agent; or
  - (d) for an illegal practice specified in paragraph 20 of the Ninth Schedule committed by an agent of his other than his election agent unless—
    - (i) it can be shown that the candidate or his election agent has authorised or consented to the committing of the illegal practice by the other agent or has paid for the circulation of the false statement constituting the illegal practice; or
    - (ii) an election court find and report that the election of the candidate was procured or materially assisted in consequence of the making or publishing of any such false statement as is referred to in the said paragraph 20.
- (2) The election of a candidate shall not be void nor shall he be subject to any incapacity for any illegal practice specified in paragraph 22 of the Ninth Schedule where an election court reports that the candidate has satisfied the court that the payment constituting the illegal practice was made by an election agent without the sanction or connivance of the candidate.

#### **115 Prosecutions for offences committed outside Northern Ireland.**

- (1) Proceedings under this Act, so far as it relates to parliamentary elections, in respect of an offence alleged to have been committed outside Northern Ireland by a British subject or citizen of the Republic of Ireland may be taken before the appropriate court in Northern Ireland having jurisdiction in the place where the person charged is for the time being.
- (2) Any period fixed by law as the period within which proceedings may be commenced shall, in the case of any such proceedings as are mentioned in sub-section (1), be

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reckoned as from the date on which the person charged first entered Northern Ireland after the commission of the offence.

## 116 Evidence by certificate of holding of elections.

On any prosecution for an electoral misdemeanour and on any proceedings for a penalty under section forty-eight the certificate of the returning officer at an election that the election mentioned in the certificate was duly held and that the person named in the certificate was a candidate at the election shall be sufficient evidence of the facts therein stated.

*S.117 rep. by 1968 c.10 (NI)*

## 118 Time limit for prosecutions.

- (1) A proceeding against a person in respect of any electoral misdemeanour shall be commenced within one year after the offence was committed,...<sup>F145</sup>, and the time so limited by this section shall as respects any proceedings under the Summary Jurisdiction Acts for any such offence, whether before an election court or otherwise, be substituted for any limitation of time contained in those Acts.
- (2) For the purposes of this section, the issue of a summons, warrant or other process shall be deemed to be a commencement of a proceeding, where the service or execution of the same on or against the alleged offender is prevented by the absconding or concealment or act of the alleged offender, but save as aforesaid service or execution of the same on or against the alleged offender, and not the issue thereof, shall be deemed to be the commencement of the proceeding.
- [<sup>F146</sup>(3) In respect of the prosecution of an electoral misdemeanour committed or alleged to have been committed at a local election, this section shall have effect subject to the following amendments:
  - (a) in subsection (1) the words, whether before an election court or otherwise, shall be omitted, and
  - (b) for subsection (2) there shall be substituted:
 

“(2) For the purposes of this section, the making of a complaint shall be deemed to be the commencement of a proceeding.”.]

F145 SLR 1976

F146 SI 1987/168

## 119 Offences by corporations.

- (1) Where any electoral misdemeanour is committed by any association or body of persons, corporate or unincorporate, the members of the association or body who have taken part in the commission of the offence shall be severally liable to any fine or punishment imposed for that misdemeanour by this Act.
- (2) Where any act or omission of an association or body of persons, corporate or unincorporate, is an offence declared to be a corrupt or illegal practice by paragraph 7 or, so far as it relates to failure to send a declaration or return or copy thereof as required by section forty-one, paragraph 16 of the Ninth Schedule, any person who at the time of the act or omission was a director, general manager, secretary or other

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similar officer of the association or body, or was purporting to act in any such capacity, shall be deemed to be guilty of that offence, unless he proves that the act or omission took place without his consent or connivance and that he exercised all such diligence to prevent the commission of the offence as he ought to have exercised having regard to the nature of his functions in that capacity and to all the circumstances.

## **120 Provisions as to Director of Public Prosecutions.**

- (1) Where information is given to<sup>F147</sup> [<sup>F148</sup> the Director of Public Prosecutions for Northern Ireland] that any electoral misdemeanour has occurred in reference to any election, it shall be his duty to make such inquiries and institute such prosecutions as the circumstances of the case appear to him to require.
- (2) A prosecution by<sup>F147</sup> [<sup>F148</sup> the Director of Public Prosecutions for Northern Ireland] for any offence punishable summarily committed in reference to a local election may be instituted before any court of summary jurisdiction in the county in which the local government electoral area for which the election was held is situate or which it adjoins, and the offence shall be deemed for all purposes to have been committed within the jurisdiction of that court.
- (3) There shall be allowed to<sup>F147</sup> [<sup>F148</sup> the Director of Public Prosecutions for Northern Ireland] for the purposes of Part IX and this Part other than his general duties under sub-section (1) such allowances for expenses as the Ministry of Finance<sup>F149</sup> may approve.
- (4) The costs incurred in defraying the expenses of<sup>F147</sup> [<sup>F148</sup> the Director of Public Prosecutions for Northern Ireland] incurred for the said purposes shall, in the first instance, be paid by the Ministry of Finance,<sup>F149</sup> and so far as they are not in the case of any prosecution paid by the defendant shall be deemed to be expenses of the election court; but the court if for any reasonable cause it seems just so to do, may order all or part of the said costs to be repaid to the Ministry of Finance<sup>F149</sup> by the parties to the petition, or such of them as the court may direct.<sup>F150</sup> In respect of the costs of an election petition relating to a local election, this subsection shall have effect as if the words so far as they are not in the case of any prosecution paid by the defendant were omitted.]

**F147** continue to am. 2002 c. 26

**F148** 1972 NI 1

**F149** Now Treasury, SI 1973/2163

**F150** SI 1987/168

## **PART XI**

### **MISCELLANEOUS AND GENERAL**

*S.121 rep. by 1989 c. 3*

## **122 Effect of incapacities with respect to the Parliament of the United Kingdom.**

- (1) So long as any person is subject, by virtue of the Representation of the People Acts, to any incapacity with respect to the Parliament of the United Kingdom, he shall be subject to the like incapacity with respect to the [<sup>F151</sup> Assembly.]

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- (2) Where by reason of anything done in reference to an election a person is subject to an incapacity with respect to the Parliament of the United Kingdom and the incapacity is limited to a particular constituency or constituencies then the like incapacities imposed by this section with respect to the [<sup>F151</sup> Assembly] shall be limited to any constituency which is included in whole or in part in the area for which the said election was held.

F151 SI 1973/2163

### 123 Publication of notices and documents.

- (1) Where by or under this Act a person is required to give public notice of any matter or to publish any document and the method of giving such notice or publishing such document is not specifically provided for, the notice shall be given and the document shall be published by such means and in such manner as the person so required considers necessary and adequate for bringing the matter or document to the knowledge of those whom it concerns.
- (2) Failure to publish a document in accordance with the provisions of this Act shall not invalidate the document but this provision shall not relieve any officer from any penalty to which he may be liable by virtue of such failure.

### 124 Misnomer, inaccurate description, etc.

Subject to any enactment or established practice of law to the contrary, no misnomer or inaccurate description of any person or place named in a register of electors or in any list, record, proxy paper, nomination paper, ballot paper, notice or other document required for the purposes of this Act shall affect the full operation of the document with respect to that person or place in any case where the description of the person or place is such as to be commonly understood.

### 125 Use of mark in place of signature.

Where a signatory affixes his mark in place of any signature required by or under this Act, such mark shall be witnessed by one person who shall append his signature and address.

### 126 Amendment of forms in Tenth Schedule.

The forms contained in the Tenth Schedule may be varied by an Order in Council; but the Governor shall not be advised to make any such Order unless a draft thereof (which shall be subject to negative resolution) has been laid before Parliament.

*S.126A rep. by 1969 c.26 (NI)*

### 127 Electoral regulations.

- (1) Without prejudice to section seventeen of the Interpretation Act (Northern Ireland), 1954, the Ministry may by electoral regulations make provision—
- (a) for anything which under this Act is to be prescribed;
  - (b) for anything which appears to the Ministry to be necessary for giving full effect to the provisions of this Act; and

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- (c) subject to any enactment of the Parliament of the United Kingdom for the time being in force, for the making of arrangements whereby—
  - (i) registers prepared for the purposes of any such enactment may be utilised for the purposes of this Act;
  - (ii) registers prepared for the purposes of this Act may be adapted and utilised for the purposes of any such enactment.
- (2) All regulations made under this Act shall be made by the Ministry and shall be subject to negative resolution.

## 128 Financial provisions.

All expenses incurred by the Ministry and by the Ministry of Finance<sup>F152</sup> for the purposes of this Act and not otherwise provided for under this Act shall be defrayed out of moneys provided by [<sup>F153</sup> the Parliament of the United Kingdom].

**F152** Now Treasury and Minister for Civil Service, SI 1973/2163  
**F153** SI 1973/2163

## 129

Without prejudice to sub-section (4) of section thirty-nine of the Interpretation Act (Northern Ireland), 1954, in computing any period of not more than seven days for the purposes of Parts VI and IX, a Sunday or a public holiday shall be disregarded.

[<sup>F154</sup>In respect of a local election and an election petition relating to a local election the foregoing provisions shall not have effect and any period of time shall be computed as follows:

- (a) where the day or the last day on which anything is required or permitted to be done by or in pursuance of Parts VI and IX is any of the days mentioned in paragraph (b), the requirement or permission shall be deemed to relate to the first day thereafter which is not one of those days; and in computing any period of not more than 7 days for the purposes of those Parts any of the days so mentioned shall be disregarded;
- (b) the days referred to in paragraph (a) are Saturday, Sunday, Christmas Eve, Maundy Thursday or a public holiday.]

**F154** SI 1987/168

## 130 Interpretation.

- (1) In this Act the expression—[<sup>F155</sup> absent voters list means, in relation to any local election, the list kept under paragraph 2(4) of Part I of Schedule 2 to the Local Elections (Northern Ireland) Order 1985 (as substituted by Schedule 2 to the Local Elections (Northern Ireland) (Amendment) Order 1987) for that election;] [<sup>F156</sup> Chief Electoral Officer means the Chief Electoral Officer for Northern Ireland appointed under section 14 and, in relation to any function, includes a person to whom that function is delegated under section 14A(2) of this Act or Article 9(2) of the Electoral Law (Northern Ireland) Order 1972 ;] [<sup>F157</sup> citizen of the Union shall be construed in accordance with Article 8.1 of the Treaty establishing the European Community (as amended by Title II of the Treaty on European Union), and relevant citizen of the Union means such a citizen who is not a Commonwealth citizen or a citizen

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of the Republic of Ireland;] Clerk of the Crown means Clerk of the Crown for Northern Ireland; committee room shall not include any house or room occupied by the candidate as a dwelling, by reason only of the candidate there transacting business with his agents in relation to the election, and no room or building shall be deemed to be a committee room by reason only of the candidate or any agent of the candidate addressing therein electors, committeemen or others; *Definition rep. by 1969 c.26 (NI)* constituency means a parliamentary constituency as designated in the Second Schedule; corporate office means the office of lord mayor, mayor, chairman, ...<sup>F158</sup>, councillor or member of a local authority, ...<sup>F158</sup>, or member (whether elected or not) of any committee appointed by a local authority for the purpose of the performance of their functions under any enactment; costs includes charges and expenses; the count means the counting of the votes given to the several candidates at a contested election; current , in relation to a register at any time, means operative at that time, and in relation to any election current register means the register or part of the register in force for the constituency,<sup>F159</sup> or district electoral area for which the election is being held] ; day of election in relation to a parliamentary election—

(a) where the election is contested, means—

*Sub-para.(i) rep. by 1968 c.20 (NI)*

(ii) ...<sup>F160</sup>, the polling day;

(b) where the election for any constituency is not contested, means the nomination day for that constituency;

deposit means, in relation to any candidate, the sum required by section sixty to be deposited with the returning officer by that candidate;

election includes a parliamentary and a local election and in relation to a parliamentary election means an election in a constituency and in relation to a<sup>F159</sup> local election means an election in a district electoral area] ...<sup>F158</sup>;

*Definition rep. by SLR 1976*

election court means such a court as is referred to in section seventy-two;

[<sup>F159</sup>election day has the meaning given in section 11(1) and (1A);]

electors means registered electors, and includes parliamentary electors and local electors;

[<sup>F161</sup>elective office means any office to which a local election is held in Northern Ireland;]

functions means functions conferred by this Act;

general election means an election of members to serve in a new parliament;

[<sup>F156</sup> local general election means a local election held in a local election year not being an election to fill a casual vacancy;]

judicial office includes the office of justice of the peace;

[<sup>F162</sup>legal incapacity has the same meaning as in the Elected Authorities (Northern Ireland) Act 1989];

[<sup>F163</sup> local authority means a district council;]

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local election and local elector mean respectively<sup>F159</sup> an election in a district electoral area for a] local authority, and a person entitled to vote at a local election;

local election year means a year specified in section eleven;

Local Elections Rules means the local elections rules in the Fifth Schedule;

local government electoral area means the area for which a local authority is or is to be elected;

merchant seaman means a person (other than a pilot) whose usual place of residence is in Northern Ireland and who is employed in any capacity on board any ship;

Minister and Ministry mean respectively the Minister<sup>F164</sup> and the Ministry<sup>F164</sup> of Home Affairs;

nomination day, in relation to any election, means the day on which candidates at that election may be nominated under this Act;

parliamentary election and parliamentary elector mean respectively an election in a constituency of a member or members to serve in the House of Commons, and a person entitled to vote at a parliamentary election;

Parliamentary Elections Rules means the parliamentary elections rules in the Fourth Schedule;

payment includes any pecuniary or other reward; and pecuniary reward and money shall be deemed to include any office, place, or employment and any valuable security or equivalent for money, and any valuable consideration, and expressions referring to money shall be construed accordingly;

personal expenses, in relation to the expenditure of any candidate in connection with any election, includes the reasonable travelling expenses of that candidate, and the reasonable expenses of his living at hotels and elsewhere for the purposes of and in relation to the election;

polling day, in relation to a contested election, means the day on which the poll is or is to be taken at that election;

[<sup>F162</sup>polling district means a ward;]

postal voting area,<sup>F160</sup> means Great Britain, the Isle of Man, the Channel Islands and the Republic of Ireland...<sup>F160</sup>;

prescribed means prescribed by electoral regulations under section one hundred and twenty-seven;

proxy means a person duly appointed under section sixty-seven by an elector;

*Definition rep. by SI 2001/417*

*Definition rep. by 1989 c. 3*

qualifying address means a dwelling-house or premises the residence in ...<sup>F165</sup> which by a person...<sup>F165</sup> entitles [<sup>F166</sup>him to be] registered as an elector;

register means a register of electors prepared in accordance with this Act;

*Definitions rep. by 1989 c. 3*

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relevant rules means, as the context requires, the parliamentary elections rules or the local elections rules respectively set out in the Fourth and Fifth Schedules;

service elector means an elector registered by virtue of a service qualification;

Speaker means the Speaker of the House of Commons and includes the Deputy Speaker and, when the office of Speaker is vacant, the Clerk of the Parliaments or any other officer for the time being performing the duties of the Clerk of the Parliaments;

[<sup>F156</sup> statutory provisions has the meaning assigned to it by section 1( f) of the Interpretation Act (Northern Ireland) 1954;]

*Definitions rep. by 1968 c.20 (NI); 1969 c.26 (NI); 1972 NI 13*

vehicle includes any vehicle or carriage intended or adapted for use on roads;

voter includes an elector and a proxy for an elector:

voting includes voting in person and by post (whether on one's own behalf or as a proxy);

writ means a writ for a parliamentary election.

*Subs.(2) rep. by 1972 NI 13*

- (3) In Parts VI, IX and X and in the Eighth and Ninth Schedules the expression candidate
- (a) in relation to a parliamentary election, means a person who is elected to serve in Parliament at the election or a person who is nominated as a candidate at the election, or is declared by himself or by others to be a candidate on or after the day of the issue of the writ for the election, or after the dissolution or vacancy in consequence of which the writ was issued;
  - (b) in relation to a local election means a person elected or having been nominated or having been declared by himself or by others to be a candidate for election, to the office to be filled at the election;

but where a person has been declared by others to be a candidate at an election without his consent, nothing in this Act shall be construed to impose any liability on that person by virtue of his having been so declared, unless he has afterwards given his assent to the declaration or has been nominated.

- <sup>F167</sup>(4) For purposes of this Act, a person shall be deemed, according to the law in Northern Ireland, not to have attained a given age until the commencement of the relevant anniversary of the day of his birth.]

- (5) The date on which an election shall be taken to be initiated shall be—
- (a) in the case of a parliamentary general election, the date of the Proclamation of the Governor in Her Majesty's name summoning a new parliament;
  - (b) in the case of a parliamentary bye-election, the date on which the writ is received; and
  - (c) in the case of a local election, the date of publication of the notice of election.

**F155** SI 1987/168

**F156** 1972 NI 13

**F157** SI 1995/1948

**F158** 1972 NI 13

**F159** SI 1985/454



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**F160** 1968 c.20 (NI)  
**F161** SI 2001/417  
**F162** 1989 c. 3  
**F163** 1972 NI 13  
**F164** Functions transf. to S of S, SI 1973/2163  
**F165** 1969 c.26 (NI)  
**F166** 1969 c.26 (NI)  
**F167** 1969 c.26 (NI)

### **131 Savings.**

*Subs.(1) rep. by SLR 1973*

- (2) Without prejudice to the provisions of the Interpretation Act (Northern Ireland), 1954 , nothing in sub-section (1) shall—
- (a) affect any incapacity imposed by or under any enactment repealed by this Act and any such incapacity shall for the purposes of this Act be treated as having been imposed under the corresponding provisions of this Act;
  - (b) extend to any enactment so far as it is applied by any local or private Act.

### **132 Short title.**

- (1) This Act may be cited as the Electoral Law Act (Northern Ireland), 1962.

*Subs.(2) rep. by SLR 1973*

**Status:**

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