



# Police Reform and Social Responsibility Act 2011

## 2011 CHAPTER 13

### PART 1

#### POLICE REFORM

#### CHAPTER 6

##### POLICE AND CRIME COMMISSIONERS: ELECTIONS AND VACANCIES

VALID FROM 25/04/2012

#### *Holding of elections*

#### **50 Ordinary elections**

- (1) An election of police and crime commissioners for all police areas (an “ordinary election”) is to be held—
  - (a) in 2012;
  - (b) in each subsequent fourth year.
- (2) The poll at the ordinary election of police and crime commissioners in 2012 is to be held on 15 November 2012.
- (3) The poll at an ordinary election of police and crime commissioners in any year after 2012 is to be held on the ordinary day of election in the year of the election.
- (4) But, if the Secretary of State so specifies in an order, the poll at an ordinary election of police and crime commissioners in any year after 2012 is to be held on such day in the year of the election as may be specified in the order.

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- (5) An order under subsection (4)—
- (a) may not specify, as the day of a poll, a day which is before the ordinary day of election in the year of the election;
  - (b) may not be made within the period of six months ending with the ordinary day of election in relation to England, or (if earlier) the ordinary day of election in relation to Wales, in the year of the election (or the first of the elections) to which the order relates.
- (6) In this section, “the ordinary day of election” in any year means—
- (a) in relation to England, the day which is the ordinary day of election in that year of councillors for counties in England and districts (see sections 37 and 37A of the Representation of the People Act 1983), and
  - (b) in relation to Wales, the day which is the ordinary day of election in that year of councillors for counties in Wales and county boroughs (see sections 37 and 37B of that Act).
- (7) The term of office of a person elected as a police and crime commissioner at an ordinary election—
- (a) begins with the seventh day after the day of the poll at the election, and
  - (b) ends with the sixth day after the day of the poll at the next ordinary election of police and crime commissioners.
- (8) Subsection (7) is subject to any provision of or made under this or any other Act relating to the appointment or election of police and crime commissioners or their ceasing to hold office.

## **51 Election to fill vacancy in office of commissioner**

- (1) This section applies where a vacancy occurs in the office of police and crime commissioner for a police area.
- (2) An election must be held to fill the vacancy.
- (3) The police area returning officer must fix the date of the poll at the election.
- (4) The date fixed must be not more than 35 days after the relevant event (computed in accordance with section 73).
- (5) For the purposes of subsection (4), “the relevant event” means—
- (a) in a case where the High Court or the appropriate officer has declared the office to be vacant, the making of that declaration;
  - (b) in any other case, the giving of notice of the vacancy to the appropriate officer by two or more relevant electors.
- (6) For this purpose “relevant elector” means a person who is registered in a register of local government electors in respect of an address within the police area.
- (7) If the vacancy occurs within the period of six months ending with the day of the poll at the next ordinary election of police and crime commissioners—
- (a) no election is to be held under subsection (2) in respect of the vacancy, and
  - (b) accordingly, the office is to be left unfilled until that ordinary election.
- (8) The term of office of a person elected as a police and crime commissioner for a police area at an election to fill a vacancy in the office—

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- (a) begins immediately the person is declared to be elected as police and crime commissioner for the area;
  - (b) ends at the time when it would have ended had the person been elected at the most recent ordinary election of police and crime commissioners.
- (9) In the case of a vacancy occurring in consequence of the failure of, or other irregularity in relation to, an election, subsections (3) and (4) have effect subject to any provision made by an order under section 58.

## 52 Persons entitled to vote

- (1) A person is entitled to vote as an elector at an election of a police and crime commissioner for a police area if on the date of the poll—
- (a) the person would be entitled to vote as an elector at a local government election in an electoral area wholly or partly comprised in the police area, and
  - (b) the address in respect of which the person is registered in the register of local government electors for that electoral area is within the police area.
- (2) A person is not entitled to vote as an elector more than once in the same police area at any election of a police and crime commissioner.

## 53 Public awareness about elections: role of Electoral Commission

The Electoral Commission must, in relation to—

- (a) each ordinary election of police and crime commissioners under section 50,
- (b) each election to fill a vacancy in the office of police and crime commissioner for a police area under section 51,

take such steps as it considers appropriate to raise public awareness about the election and how to vote in it.

### *Conduct of elections*

VALID FROM 25/04/2012

## 54 Returning officers etc

- (1) The returning officer for an election of a police and crime commissioner for a police area (“the police area returning officer”) is to be a person who—
- (a) is an acting returning officer by virtue of section 28(1) of the Representation of the People Act 1983 (acting returning officer for parliamentary election) for a constituency falling wholly or partly within the police area, and
  - (b) is designated for the purposes of this subsection by order of the Secretary of State.
- (2) The Secretary of State may by regulations confer functions—
- (a) on police area returning officers, and
  - (b) on local returning officers.
- (3) Regulations under subsection (2) may apply or incorporate, with or without modifications or exceptions, any relevant provision.

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- (4) Each relevant local authority must place the services of its officers at the disposal of any person on whom functions are conferred under subsection (2) in relation to the police area for the purpose of assisting that person in the discharge of those functions.
- (5) In this section—
- “local authority” means—
- (a) a district council,
  - (b) a county council in England for a county in which there are no district councils,
  - (c) the Council of the Isles of Scilly,
  - (d) a county council or county borough council in Wales;
- “local election” means an election of members of a local authority;
- “local returning officer” means a person who, by virtue of section 35 of the Representation of the People Act 1983, is a returning officer for any local elections;
- “relevant local authority”, in relation to a police area, means a local authority whose area falls wholly or partly within the police area;
- “relevant provision” means any provision (whenever passed or made) of, or made under, any of the following—
- (a) the Representation of the People Acts,
  - (b) the Local Government Act 1972,
  - (c) the Local Government Act 2000,
  - (d) the Political Parties, Elections and Referendums Act 2000,
  - (e) the European Parliamentary Elections Act 2002,
  - (f) the Government of Wales Act 2006, and
  - (g) any other enactment relating to parliamentary elections, European Parliamentary elections or local government elections.

VALID FROM 25/04/2012

## 55 Returning officers: expenditure

- (1) A returning officer may recover charges in respect of services rendered, or expenses incurred, by the officer for or in connection with an election of a police and crime commissioner if—
- (a) the services were necessarily rendered, or the expenses were necessarily incurred, for the efficient and effective conduct of the election, and
  - (b) the total of the officer's charges does not exceed the amount (“the overall maximum recoverable amount”) specified in, or determined in accordance with, an order made by the Secretary of State, with the consent of the Treasury, for the purposes of this subsection.
- (2) An order under subsection (1) may specify, or make provision for determining in accordance with the order, a maximum recoverable amount for services or expenses of any specified description.

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- (3) Subject to subsection (4), the returning officer may not recover more than the specified maximum recoverable amount in respect of any specified services or expenses.
- (4) In a particular case the Secretary of State may authorise the payment of—
- (a) more than the overall maximum recoverable amount, or
  - (b) more than the specified maximum recoverable amount for any specified services or expenses,
- if the Secretary of State is satisfied that the conditions in subsection (5) are met.
- (5) Those conditions are—
- (a) that it was reasonable for the returning officer concerned to render the services or incur the expenses, and
  - (b) that the charges in question are reasonable.
- (6) The amount of any charges recoverable in accordance with this section is to be paid by the Secretary of State on an account being submitted to the Secretary of State.
- (7) But the Secretary of State may, before payment, apply for the account to be taxed under section 56.
- (8) Where the superannuation contributions required to be paid by a local authority in respect of any person are increased by any fee paid under this section as part of a returning officer's charges at an election of a police and crime commissioner, then on an account being submitted to the Secretary of State a sum equal to the increase must be paid to the authority by the Secretary of State.
- (9) On the request of a returning officer for an advance on account of the officer's charges, the Secretary of State may make such an advance on such terms as the Secretary of State thinks fit.
- (10) The Secretary of State may by regulations make provision as to—
- (a) the time when, and
  - (b) the manner and form in which,
- accounts are to be rendered to the Secretary of State for the purposes of the payment of a returning officer's charges.
- (11) Any sums required by the Secretary of State for making payments under this section are to be charged on, and paid out of, the Consolidated Fund.
- (12) In this section—
- “local authority” has the same meaning as in section 54;
  - “local returning officer” has the same meaning as in that section;
  - “returning officer” means—
    - (a) a police area returning officer, or
    - (b) a local returning officer on whom functions are conferred under subsection (2) of that section;
  - “specified” means specified in, or determined in accordance with, an order under subsection (1).

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## **56 Taxation of returning officer's account**

- (1) Any application under section 55(7) for a returning officer's account to be taxed is to be made to the county court.
- (2) On any such application the court has jurisdiction—
  - (a) to tax the account—
    - (i) in such manner, and
    - (ii) at such time and place,
 as the court thinks fit, and
  - (b) finally to determine the amount payable to the returning officer.
- (3) On any such application the returning officer may apply to the court to examine any claim made by any person against the officer in respect of matters charged in the account.
- (4) Where an application is made in respect of a claim under subsection (3)—
  - (a) notice of the application must be given to the claimant;
  - (b) the court must give the claimant an opportunity to be heard and to tender any evidence;
  - (c) the court may allow or disallow the claim, with or without costs;
  - (d) the determination of the court is final for all purposes and as against all persons.
- (5) In this section “returning officer” has the same meaning as in section 55.

VALID FROM 25/04/2012

## **57 Voting at elections of police and crime commissioners**

- (1) This section applies to any election under this Chapter of a police and crime commissioner for a police area.
- (2) The commissioner is to be returned under the simple majority system, unless there are three or more candidates.
- (3) If there are three or more candidates—
  - (a) the commissioner is to be returned under the supplementary vote system, and
  - (b) any vote in the election is a supplementary vote.
- (4) Schedule 9 (the supplementary vote system) has effect.
- (5) In subsection (3), “supplementary vote” means a vote capable of being given to indicate first and second preferences from among the candidates.

## **58 Power to make provision about elections etc**

- (1) The Secretary of State may by order make provision as to—

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- (a) the conduct of elections of persons to be police and crime commissioners;
  - (b) the questioning of such an election and the consequences of irregularities.
- (2) The provision which may be made under subsection (1)(a) includes, in particular, provision—
- (a) about registration of electors;
  - (b) for disregarding alterations in a register of electors;
  - (c) about the registration or other recognition of political parties and other persons incurring expenditure in relation to elections of police and crime commissioners;
  - (d) about funding and expenditure, in relation to elections of police and crime commissioners, of candidates, political parties and other persons incurring such expenditure;
  - (e) for the combination of polls at elections of police and crime commissioners and other polls;
  - (f) for any election held in consequence of any irregularity at an ordinary election to be treated as held at an ordinary election for any of the purposes of this Act.
- (3) An order under subsection (1) may—
- (a) apply or incorporate, with or without modifications or exceptions, any relevant provision;
  - (b) modify any form contained in any relevant provision so far as may be necessary to enable it to be used both for the original purpose and in relation to elections for police and crime commissioners;
  - (c) include provision creating criminal offences.
- (4) Provision within paragraph (d) of subsection (2) includes, in particular—
- (a) provision prohibiting, or imposing limitations on, funding or expenditure of any kind mentioned in that paragraph, and
  - (b) provision for treating funding or expenditure of any such kind which does not relate exclusively to an election of police and crime commissioners as being (or not being), wholly or partly, funding or expenditure in relation to which—
    - (i) any provision within paragraph (a) applies, or
    - (ii) any relevant provision applies.
- (5) The Secretary of State may by order make modifications of any relevant provision that are consequential on any provision of—
- (a) section 1(4),
  - (b) this Chapter,
  - (c) an order under subsection (1), or
  - (d) regulations under section 54.
- (6) Provision that may be made under subsection (5) includes, in particular, provision modifying any relevant provision so as to apply (with or without modifications)—
- (a) in relation to elections for police and crime commissioners as it applies in relation to other elections;
  - (b) in relation to police and crime commissioners as it applies in relation to persons elected at other elections.
- (7) In this section—

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“relevant provision” means any provision (whenever passed or made) of, or made under, any of the following—

- (a) the Representation of the People Acts,
- (b) the Local Government Act 1972,
- (c) the Local Government Act 2000,
- (d) the Political Parties, Elections and Referendums Act 2000,
- (e) the European Parliamentary Elections Act 2002,
- (f) the Government of Wales Act 2006, and
- (g) any other enactment relating to parliamentary elections, European Parliamentary elections or local government elections;

“modify” includes amend, repeal or revoke (and related terms are to be read accordingly).

VALID FROM 25/04/2012

*Vacancy in office of police and crime commissioner*

**59 Date of vacancy in office of commissioner**

- (1) For the purposes of this Chapter, a vacancy in the office of police and crime commissioner for a police area is to be regarded as occurring—
  - (a) in the case of a vacancy in consequence of the failure of, or other irregularity in relation to, an election, at the time specified in an order under section 58;
  - (b) in the case of resignation, on receipt of the notice of resignation by the appropriate officer;
  - (c) in the case of death, on the date of death;
  - (d) in any case within subsection (2), on the date on which the office of police and crime commissioner for the police area is declared to have been vacated by the High Court or by the appropriate officer, as the case may be.
- (2) The cases referred to in subsection (1)(d) are—
  - (a) where the person elected as police and crime commissioner fails to make and deliver a declaration of acceptance of office in accordance with section 70;
  - (b) where a vacancy arises under section 63 (incapacity of commissioner: acting commissioner acting for 6 months);
  - (c) where a person becomes disqualified—
    - (i) from being a police and crime commissioner, or
    - (ii) from being the police and crime commissioner for the police area.
- (3) The appropriate officer must give public notice of a vacancy in the office of police and crime commissioner for a police area.
- (4) The appropriate officer must give notice of a vacancy in the office of police and crime commissioner for a police area to the police area returning officer.
- (5) Any notice under subsection (3) or (4) must be given as soon as practicable after the date on which the vacancy is to be regarded under this section as occurring.



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## **60 Declaration of vacancy in certain cases**

- (1) Subsection (2) applies where—
  - (a) a police and crime commissioner for a police area becomes disqualified (whether by virtue of this or any other Act)—
    - (i) from being a police and crime commissioner, or
    - (ii) from being the police and crime commissioner for the police area,
  - (b) the person elected as police and crime commissioner for a police area fails to make and deliver a declaration of acceptance of office in accordance with section 70, or
  - (c) a vacancy arises under section 63 (incapacity of commissioner: acting commissioner acting for 6 months).
- (2) The appropriate officer must forthwith declare the office of police and crime commissioner for that police area to be vacant, unless—
  - (a) it has been declared vacant by the High Court, or
  - (b) an application has been made to the High Court for a declaration under section 71 and the grounds in issue include any ground on which the appropriate officer would (but for this paragraph) make the declaration.

## **61 Resignation of commissioner**

- (1) A police and crime commissioner may at any time resign office by giving notice to the appropriate officer.
- (2) Any such resignation takes effect on the officer's receipt of the notice.

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### *Vacancy or incapacity*

## **62 Appointment of acting commissioner**

- (1) The police and crime panel for a police area must appoint a person to act as police and crime commissioner for that area (the “acting commissioner”) if—
  - (a) no person holds the office of police and crime commissioner for that area,
  - (b) the police and crime commissioner for that area is incapacitated, or
  - (c) the police and crime commissioner for that area is suspended in accordance with section 30.
- (2) The police and crime panel may appoint a person as acting commissioner only if the person is a member of the police and crime commissioner's staff at the time of the appointment.
- (3) In appointing a person as acting commissioner in a case where the police and crime commissioner is incapacitated, the police and crime panel must have regard to any representations made by the commissioner in relation to the appointment.
- (4) All the functions of a police and crime commissioner are exercisable by an acting commissioner, apart from issuing or varying a police and crime plan under section 5.

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- (5) Any property or rights vested in the police and crime commissioner may be dealt with by the acting commissioner as if vested in the acting commissioner.
- (6) The appointment of an acting commissioner ceases to have effect upon the occurrence of the earliest of these events—
- (a) the election of a person as police and crime commissioner;
  - (b) the termination by the police and crime panel, or by the acting commissioner, of the appointment of the acting commissioner;
  - (c) in a case where the acting commissioner is appointed because the police and crime commissioner is incapacitated, the commissioner ceasing to be incapacitated;
  - (d) in a case where the acting commissioner is appointed because the police and crime commissioner is suspended, the commissioner ceasing to be suspended.
- (7) In a case where—
- (a) the acting commissioner is appointed because the police and crime commissioner is incapacitated or suspended, and
  - (b) a vacancy subsequently occurs in the office of police and crime commissioner,
- the occurrence of that vacancy does not affect the appointment of the acting commissioner (and accordingly subsection (6)(c) or (d) does not apply).
- (8) For the purposes of this section—
- (a) a police and crime commissioner is incapacitated if the commissioner is unable to exercise the functions of commissioner, except where the commissioner is unable to exercise those functions only because the commissioner has yet to give a declaration of office under section 70; and
  - (b) it is for the police and crime panel for a police area to determine whether or not the police and crime commissioner for that area is incapacitated.
- (9) Subject to subsection (4), a reference in any enactment to a police and crime commissioner includes a reference to an acting commissioner.

### **63 Vacancy where acting commissioner acts for 6 months**

- (1) Subsection (2) applies where—
- (a) an acting commissioner is appointed under section 62 to act for the police and crime commissioner for a police area because the police and crime commissioner is incapacitated, and
  - (b) the police and crime commissioner does not cease to be incapacitated during the period of 6 months beginning with the day on which the acting commissioner is appointed.
- (2) At the end of that 6 month period—
- (a) the police and crime commissioner ceases to be police and crime commissioner, and
  - (b) accordingly, the office of police and crime commissioner for that police area becomes vacant.

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### *Disqualification*

#### **64 Disqualification from election as police and crime commissioner**

- (1) A person is disqualified from being elected to the office of police and crime commissioner for a police area at any election unless—
  - (a) the person has attained the age of 18 when nominated as a candidate at the election, and
  - (b) on each relevant day, the person is registered in the register of local government electors for an electoral area in respect of an address in the police area.
- (2) In this section “relevant day”, in relation to a person who is a candidate at an election, means—
  - (a) the day on which the person is nominated as a candidate at the election;
  - (b) the day of the poll at the election.
- (3) A person is disqualified from being elected to the office of police and crime commissioner for a police area at an ordinary election if the person has been nominated as a candidate for election as police and crime commissioner for any other police area at that election.
- (4) A person is disqualified from being elected to the office of police and crime commissioner for a police area at an election other than an ordinary election if—
  - (a) the person is police and crime commissioner for any other police area, or
  - (b) the person has been nominated as a candidate for election as police and crime commissioner for any other police area for which an election is held on the same day.

#### **65 Disqualification from election or holding office as police and crime commissioner: police grounds**

- (1) A person is disqualified from being elected as, or being, a police and crime commissioner if the person—
  - (a) is disqualified from being a member of the House of Commons under section 1(1)(d) of the House of Commons Disqualification Act 1975 (members of police forces for police areas in the United Kingdom);
  - (b) is a member of—
    - (i) the British Transport Police Force;
    - (ii) the Civil Nuclear Constabulary;
  - (c) is a special constable appointed—
    - (i) under section 27 of the Police Act 1996 for a police area or the City of London police area;
    - (ii) under section 25 of the Railways and Transport Safety Act 2003 (British Transport Police Force);
  - (d) is a member of staff of the chief officer of police of any police force maintained for a police area;

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- (e) is a member of staff of—
  - (i) a police and crime commissioner;
  - (ii) the Mayor's Office for Policing and Crime;
- (f) is the Mayor of London;
- (g) is a member of the Common Council of the City of London or a member of staff of that Council in its capacity as a police authority;
- (h) is a member (including a member who is chairman or chief executive), or member of staff, of—
  - (i) the British Transport Police Authority;
  - (ii) the Civil Nuclear Police Authority;
  - (iii) the Independent Police Complaints Commission;
  - (iv) the Serious Organised Crime Agency;
  - (v) the National Policing Improvement Agency;
- (i) holds any employment in an entity which is under the control of—
  - (i) a local policing body;
  - (ii) any body mentioned in paragraph (h);
  - (iii) the chief officer of police for any police force maintained for a police area or the City of London police area;
  - (iv) the chief officer of police for any police force mentioned in paragraph (b).

(2) In this section, “member of staff”, in relation to any person (“A”), includes a person (“B”) who works for A—

- (a) under a contract of employment,
- (b) under a contract for services, or
- (c) in accordance with arrangements made between B's employer and A;

and for this purpose B works for A if B provides services for A under the direction and control of A.

(3) In subsection (1)(i), the reference to an entity under the control of a local policing body or other body or a chief officer of police is to be construed in accordance with regulations made by the Secretary of State.

(4) In its application in relation to the first election of a police and crime commissioner to be held for a police area, this section applies as if—

- (a) for paragraphs (d) to (g) of subsection (1) there were substituted—
  - “(d) any member, or member of staff, of a police authority within the meaning of the Police Act 1996 (see section 101 of that Act);” and
- (b) for paragraph (i)(i) of that subsection there were substituted—
  - “(i) a police authority within the meaning of the Police Act 1996.”

## **66 Disqualification from election or holding office as police and crime commissioner: other grounds**

(1) A person is disqualified from being elected as, or being, a police and crime commissioner unless the person satisfies the citizenship condition (see section 68).

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- (2) A person is disqualified from being elected as, or being, a police and crime commissioner if the person—
- (a) is disqualified from being a member of the House of Commons under section 1(1)(a) to (c) of the House of Commons Disqualification Act 1975 (judges, civil servants, members of the armed forces), or
  - (b) is a member of the legislature of any country or territory outside the United Kingdom.
- (3) A person is disqualified from being elected as, or being, a police and crime commissioner if—
- (a) the person is the subject of—
    - (i) a debt relief restrictions order under paragraph 1 of Schedule 4ZB to the Insolvency Act 1986;
    - (ii) an interim debt relief restrictions order under paragraph 5 of that Schedule;
    - (iii) a bankruptcy restrictions order under paragraph 1 of Schedule 4A to that Act;
    - (iv) a bankruptcy restrictions interim order under paragraph 5 of that Schedule;
  - (b) a debt relief restrictions undertaking has effect in respect of the person under paragraph 7 of Schedule 4ZB to that Act;
  - (c) the person has been convicted in the United Kingdom, the Channel Islands, or the Isle of Man, of any imprisonable offence (whether or not sentenced to a term of imprisonment in respect of the offence); or
  - (d) the person is incapable of being elected as a member of the House of Commons, or is required to vacate a seat in the House of Commons, under Part 3 of the Representation of the People Act 1983 (consequences of corrupt or illegal practices).
- (4) For the purpose of subsection (3)(c)—
- (a) “imprisonable offence” means an offence—
    - (i) for which a person who has attained the age of 18 years may be sentenced to a term of imprisonment, or
    - (ii) for which, in the case of such a person, the sentence is fixed by law as life imprisonment;
  - (b) a person is to be treated as having been convicted—
    - (i) on the expiry of the ordinary period allowed for an appeal or application in respect of the conviction, or
    - (ii) if an appeal or application is made in respect of the conviction, when the appeal or application is finally disposed of or abandoned or fails by reason of non-prosecution.
- (5) A person is disqualified from being elected as, or being, police and crime commissioner for a police area if the person—
- (a) is a member of staff of a relevant council, or
  - (b) holds any employment in an entity which is under the control of a relevant council within subsection (7)(a), (b), (c) or (f).
- (6) For this purpose—
- “member of staff” has the same meaning as in section 65;

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“relevant council”, in relation to a police area, means a council within subsection (7) for an area which, or any part of which, lies within the police area.

- (7) Those councils are—
- (a) a county council;
  - (b) a county borough council;
  - (c) a district council;
  - (d) a parish council;
  - (e) a community council;
  - (f) the Council of the Isles of Scilly.
- (8) In subsection (5)(b), the reference to an entity under the control of a relevant council is to be construed in accordance with regulations made by the Secretary of State.
- (9) Nothing in subsection (5) is to be taken to disqualify a person by virtue of being a teacher, or otherwise employed, in a school or other educational institution maintained or assisted by a relevant council.

#### **67 Disqualification of person holding office as police and crime commissioner**

A person becomes disqualified from being a police and crime commissioner upon becoming a member of—

- (a) the House of Commons;
- (b) the Scottish Parliament;
- (c) the National Assembly for Wales;
- (d) the Northern Ireland Assembly;
- (e) the European Parliament.

#### **68 Citizenship condition**

- (1) This section applies for the purposes of section 66.
- (2) A person satisfies the citizenship condition if the person is—
- (a) a qualifying Commonwealth citizen,
  - (b) a citizen of the Republic of Ireland, or
  - (c) a citizen of the Union.
- (3) For the purposes of this section, a person is a qualifying Commonwealth citizen if the person is a Commonwealth citizen and—
- (a) is not a person who requires leave under the Immigration Act 1971 to enter or remain in the United Kingdom, or
  - (b) is a person who requires such leave but for the time being has (or is, by virtue of any enactment, to be treated as having) indefinite leave to remain within the meaning of that Act.
- (4) But a person who does not require leave to enter or remain in the United Kingdom by virtue only of section 8 of the Immigration Act 1971 (exceptions to requirement for leave in special cases) is not a qualifying Commonwealth citizen by virtue of subsection (3)(a).

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- (5) In this section the expression “citizen of the Union” is to be construed in accordance with Article 20(1) of the Treaty on the Functioning of the European Union.

## 69 Validity of acts

The acts of a person elected as police and crime commissioner for a police area under this Chapter who acts in that office are, despite any disqualification—

- (a) from being, or being elected as, a police and crime commissioner, or
- (b) from being, or being elected as police and crime commissioner for that area, as valid and effectual as if the person had not been so disqualified.

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### *Elections: further provision*

## 70 Declaration of acceptance of office of police and crime commissioner

- (1) A person elected to the office of police and crime commissioner for any police area may not act in that office unless the person has—
- (a) made a declaration of acceptance of the office in a form specified in an order made by the Secretary of State, and
  - (b) delivered the declaration to the appropriate officer,
- in each case, when not ineligible by virtue of subsection (5).
- (2) If the person fails to make and deliver a declaration in accordance with subsection (1) within the period of two months beginning with the day after the election, the office of police and crime commissioner for that area becomes vacant at the end of the period.
- (3) Any declaration made under this section must be made before—
- (a) the appropriate officer;
  - (b) a justice of the peace or magistrate in the United Kingdom, the Channel Islands or the Isle of Man, or
  - (c) a commissioner appointed to administer oaths in the Senior Courts.
- (4) Any person before whom a declaration is authorised to be made under this section may take the declaration.
- (5) A person is ineligible to make or give a declaration of acceptance of office under this section in respect of the office of police and crime commissioner for a police area at any time when the person is a member of—
- (a) the House of Commons;
  - (b) the Scottish Parliament;
  - (c) the National Assembly for Wales;
  - (d) the Northern Ireland Assembly;
  - (e) the European Parliament.
- (6) No salary, and no payment towards the provision of superannuation benefits, is to be paid under this Act to or in respect of a police and crime commissioner until the commissioner has complied with the requirements of subsection (1).



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- (7) Subsection (6) does not affect any entitlement of a police and crime commissioner to payments in respect of the period before the commissioner complies with the requirements of subsection (1) once the commissioner has complied with those requirements.

## **71 Judicial proceedings as to disqualification or vacancy**

- (1) Any person who claims that a person purporting to be a police and crime commissioner for a police area is, or at any time since being elected has been, disqualified—
- (a) from being a police and crime commissioner; or
  - (b) from being police and crime commissioner for the police area,
- may apply to the High Court for a declaration to that effect, and that accordingly the office of police and crime commissioner for the area is vacant.
- (2) An application under subsection (1) in respect of any person may be made whether the grounds on which it is made are alleged to have subsisted at the time when the person was elected or to have arisen subsequently.
- (3) No declaration may be made under this section in respect of any person on grounds which subsisted when the person was elected, if an election petition under an order under section 58 is pending or has been tried in which the person's disqualification on those grounds is or was in issue.
- (4) Any person who claims that a person purporting to be a police and crime commissioner for a police area has ceased to be the police and crime commissioner for the police area by virtue of—
- (a) section 63, or
  - (b) section 70,
- may apply to the High Court for a declaration to that effect.
- (5) On an application under this section—
- (a) the person in respect of whom the application is made is to be the respondent, and
  - (b) the applicant must give such security for the costs of the proceedings as the court may direct.
- (6) The amount of the security may not exceed £5,000 or such other sum as the Secretary of State may specify by order.
- (7) The decision of the court on an application under this section is final.

## **72 Amendment of police areas: term of office of commissioner**

- (1) Subsection (2) applies where a person becomes police and crime commissioner for a resulting police area by virtue of, or of an election required to be held by, a police area alteration order.
- (2) The person's term of office as police and crime commissioner ends at the time when it would end had the person been elected as police and crime commissioner at the previous ordinary election of commissioners in England or, as the case may be, Wales.



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(3) In this section—

“police area alteration order” means—

- (a) an order under section 32 of the Police Act 1996 (power to alter police areas by order);
- (b) an order under section 10 of the Local Government and Public Involvement in Health Act 2007 (implementation of Boundary Committee for England review of local government areas) which alters the boundary of any police area in England;
- (c) an order under section 58 of the Local Government Act 1972 (implementation of proposals by Local Government Boundary Commission for Wales) which alters the boundary of any police area in Wales;

“resulting police area”, in relation to a police area alteration order, means a police area existing immediately after the order comes into force—

- (a) which is created by the order, or
- (b) any part of whose boundary results from the order.

(4) References in this section to the coming into force of a police area alteration order are references to the changes in police areas made by the order taking effect.

### **73 Computation of time and timing of elections etc**

(1) Subsection (2) applies where the day, or the last day, on which anything is required or permitted to be done by or under section 50, 51 or 70 is not a business day.

(2) The requirement or permission is deemed to relate instead to the first business day after that day.

(3) Where under subsection (2) the day of an election is postponed, the day to which it is postponed is to be treated as the day of election for the purpose of—

- (a) any provision of, or made under, this Act, or
- (b) any relevant provision (within the meaning of section 58).

(4) Any day which is not a business day is to be disregarded in computing any period of time for the purpose of section 51.

(5) In this section, “business day” means a day other than—

- a Saturday,
- a Sunday,
- Christmas Eve,
- Christmas Day,
- Good Friday,
- a bank holiday, or
- a day appointed for public thanksgiving or mourning.

### **74 Elections: consequential amendments**

Schedule 10 (consequential amendments relating to elections of persons as police and crime commissioners) has effect.

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## **75 The appropriate officer**

- (1) For each police area, other than the metropolitan police district, the Secretary of State must by order designate a local authority.
- (2) In this Chapter, the “appropriate officer”, in relation to any such police area, means the head of paid service of the local authority designated for that police area.
- (3) In this section—
  - “local authority” means—
    - (a) a district council,
    - (b) a county council in England for a county in which there are no district councils,
    - (c) the Council of the Isles of Scilly,
    - (d) a county council or county borough council in Wales;
  - “head of paid service”, in relation to a council, means the person designated by the council under section 4(1)(a) of the Local Government Act 1989.

## **76 Interpretation of Chapter 6**

In this Chapter, the following terms have the following meanings, unless the context otherwise requires—

- “appropriate officer” has the meaning given by section 75;
- “elector”—
  - (a) in relation to an election of a police and crime commissioner, means a person entitled to vote at the election;
  - (b) in relation to a local government election, has the same meaning as in the Representation of the People Act 1983 (see section 202 of that Act);
- “electoral area” has the same meaning as in that Act as it applies in relation to England and Wales (see section 203 of that Act);
- “local government election” has the same meaning as in that Act as it applies in relation to England and Wales (see section 203 of that Act);
- “local government elector” means a person registered as a local government elector in the register of electors in accordance with the provisions of the Representation of the People Acts;
- “ordinary election” has the meaning given in section 50;
- “police area returning officer” has the meaning given by section 54.

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**Changes to legislation:**

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