

STATUTORY INSTRUMENTS

**1992 No. 810**

**The Local Government (Miscellaneous Provisions) (Northern Ireland) Order 1992**

**PART V**

**AMENDMENT AND REPEAL OF PROVISIONS  
RELATING TO DISTRICT COUNCILS**

Miscellaneous amendments of the principal Act

**Northern Ireland code of local government conduct**

**29.**—<sup>F1</sup>(1) .....

(2) In Part I of Schedule 1 to the principal Act (declaration of councillor) at the end of the declaration there shall be added—

“I affirm that I have read and will be guided by the Northern Ireland code of local government conduct in the performance of my functions as a councillor.”.

**F1** Art. 29(1) repealed (1.4.2015) by [Local Government Act \(Northern Ireland\) 2014 \(c. 8\)](#), s. 129, [Sch. 10](#) (with s. 124(4)); S.R. 2015/209, art. 2, Sch. 1

**Declaration of vacancy in office**

**30.** In section 10(a) of the principal Act (declaration of vacancy in office in certain cases) after “conviction” there shall be inserted “or of a determination by the High Court that he has acted in breach of the terms of a declaration against terrorism as defined in section 7 of the Elected Authorities (Northern Ireland) Act 1989,”.

**Election of chairman or vice-chairman**

<sup>F2</sup>**31.** .....

**F2** Arts. 31-33 repealed (1.4.2015) by [Local Government Act \(Northern Ireland\) 2014 \(c. 8\)](#), s. 129, [Sch. 10](#) (with s. 124(4)); S.R. 2015/209, art. 2, Sch. 1

**Voting rights of members of committees, sub-committees and joint committees**

<sup>F2</sup>**32.** .....

**F2** Arts. 31-33 repealed (1.4.2015) by [Local Government Act \(Northern Ireland\) 2014 \(c. 8\)](#), s. 129, [Sch. 10](#) (with s. 124(4)); S.R. 2015/209, art. 2, Sch. 1

## Procedural standing orders

<sup>F2</sup>33. ....

**F2** Arts. 31-33 repealed (1.4.2015) by Local Government Act (Northern Ireland) 2014 (c. 8), s. 129, Sch. 10 (with s. 124(4)); S.R. 2015/209, art. 2, Sch. 1

## Consultation with district councils

**34.** In section 40(3)(i) of the principal Act (appointment of the Staff Commission after consultation with councils) after “such” in the first place where it occurs there shall be inserted “councils and”.

## Appointment and management of officers

**35.—**(1) In section 40 of the principal Act (the Staff Commission)—

- (a) in subsection (3)(b) for “twelve” there shall be substituted “fourteen”;
- (b) after subsection (4)(b) there shall be inserted—
  - “(bb) monitoring the fair employment practices of councils and their compliance with statutory requirements in relation to fair employment;” ;
- (c) after subsection (4)(c) there shall be inserted—
  - “(cc) establishing and issuing a code of recommended practice as regards the conduct of officers of councils;” .

(2) In section 41 of the principal Act (appointment and qualification of officers)—

- (a) after subsection (3) there shall be inserted—
  - “(3A) Without prejudice to any code of procedure established by the Staff Commission, a council shall not appoint any officer unless the vacancy in the office is advertised in such manner as may be prescribed.” ;
- (b) in subsection (8)—
  - (i) after paragraph (a) there shall be inserted—
    - “(aa) may make provision with respect to the co-ordination of the provision of the service provided by the officers of that class so employed within the districts of the council by which the officers are employed and the other council or councils” ;
  - (ii) at the end of paragraph (b) for “and” there shall be substituted—
    - “(bb) may provide that the other council or councils shall not appoint officers of that class; and” ;
  - (iii) the words from “and where such an order” onwards shall be omitted;
- (c) after subsection (8) there shall be inserted—
  - “(8A) If the Department is satisfied that it is expedient that officers of any class should not be employed by one of the councils on behalf of both or all of them, the Department may make an order—
    - (a) transferring officers of that class from the council by which they are employed to such other council or councils as is specified in or determined under the order;
    - (b) making provision for the protection of the interests of every officer so transferred;

- (c) providing for the expenses incurred in connection with the transfer of the employment of the officers to be defrayed by the councils in such proportion as they may agree upon or, in case of disagreement, as may be determined by the Department; and
  - (d) making such incidental and supplemental provision as the Department thinks fit.
- (8B) In subsection (8)(aa) “co-ordination” includes—
- (a) advising the council by which the officers are employed and the other council or councils on the establishment of the service provided by the officers of that class, including the number of officers to be employed and the qualifications of such officers;
  - (b) making provision for training of such officers;
  - (c) issuing advisory circulars and guidelines with respect to statutory provisions or standards of inspection or advising on such circulars and guidelines issued by the Department or district councils;
  - (d) recording and reporting statistical data and on the enforcement of statutory provisions;
  - (e) reporting annually to the Department and to the council by which the officers are employed and the other council or councils;
  - (f) for the purpose of reaching agreement as mentioned in subsection (8)(b), making recommendations with respect to the apportionment of the expenses of the council by which the officers are employed in connection with the service provided by officers of that class; and
  - (g) such other functions or activities as the Department may provide in the order under subsection (8).” .

**Public inspection of accounts and documents and right of challenge**

- 36.—(1) <sup>F3</sup> .....
- (2) <sup>F3</sup> .....
- <sup>F4</sup>(3) .....

<p><b>F3</b> Art. 36(1)(2) repealed (1.4.2006) by <a href="#">Local Government (Northern Ireland) Order 2005 (S.I. 2005/1968 (N.I. 18))</a>, arts. 1(2), 28(8), Sch. 1; S.R. 2006/151, <b>art. 2</b>, Sch. (with art. 4)</p> <p><b>F4</b> Art. 36(3) repealed (1.4.2015) by <a href="#">Local Government Act (Northern Ireland) 2014 (c. 8)</a>, s. 129, <b>Sch. 10</b> (with s. 124(4)); S.R. 2015/209, art. 2, Sch. 1</p>
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**Auditor's report**

- 37. <sup>F5</sup> .....

<p><b>F5</b> Art. 37 repealed (1.4.2006) by <a href="#">Local Government (Northern Ireland) Order 2005 (S.I. 2005/1968 (N.I. 18))</a>, arts. 1(2), 28(8), Sch. 1; S.R. 2006/151, <b>art. 2</b>, Sch. (with art. 4)</p>
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**Power of auditor to issue prohibition order**

- 38. <sup>F6</sup> .....

**F6** Art. 38 repealed (1.4.2006) by [Local Government \(Northern Ireland\) Order 2005 \(S.I. 2005/1968 \(N.I. 18\)\)](#), arts. 1(2), 28(8), Sch. 1; S.R. 2006/151, **art. 2**, Sch. (with art. 4)

### **Enforcement of bye-laws by constables**

**39.** In section 93(1) of the principal Act (enforcement of bye-laws) after “behalf” there shall be inserted “or a constable”.

### **Expenditure for special purposes**

**40.** In section 115 of the principal Act (expenditure for special purposes)—

- (a) in subsection (1)—
  - (i) after “interests” there shall be inserted “of, and will bring direct benefit to”;
  - (ii) in paragraph (a) “of” shall be omitted;
  - (iii) in paragraph (b) “of” shall be omitted in the first and second place where it occurs;
  - (iv) in paragraph (c) “of” shall be omitted in the first and third place where it occurs;
- (b) in subsection (3)—
  - (i) after “section” there shall be inserted “(a)”;
  - (ii) at the end there shall be inserted
    - “or
    - (b) unless the direct benefit accruing to its district or any part of its district or to the inhabitants of its district or any part of its district will be commensurate with the payments to be made.”;
- (c) after subsection (3) there shall be added—
  - “(4) In any case where—
    - (a) by virtue of paragraph (a) of subsection (3) a council is prohibited from making any payment for a particular purpose; and
    - (b) the power or duty of the council to make any payment for that purpose is in any respect limited or conditional (whether by being restricted to a particular group of persons or in any other way),
 the prohibition in that paragraph shall extend to all payments to which that power or duty would apply if it were not subject to any limitation or condition.
  - (5) A council may make a payment under subsection (1) on publicity only by way of assistance to a public body or a voluntary body where the publicity is incidental to the main purpose for which the assistance is given.”.

### **Prohibition of political publicity**

**41.—(1)** After section 115 of the principal Act there shall be inserted—

“Publicity

#### **Prohibition of political publicity.**

**115A.—(1)** A council shall not publish any material which, in whole or in part, appears to be designed to affect public support for a political party.

(2) In determining whether material falls within the prohibition regard shall be had to the content and style of the material, the time and other circumstances of publication and the likely effect on those to whom it is directed and, in particular, to the following matters—

- (a) whether the material refers to a political party or to persons identified with a political party or promotes or opposes a point of view on a question of political controversy which is identifiable as the view of one political party and not of another;
- (b) where the material is part of a campaign, the effect which the campaign appears to be designed to achieve.

(3) A council shall not give financial or other assistance to a person for the publication of material which the council is prohibited by this section from publishing itself.

#### **Codes of recommended practice as regards publicity.**

**115B.**—(1) The Department may issue one or more codes of recommended practice as regards the content, style, distribution and cost of council publicity, and such other related matters as it thinks appropriate, and councils shall have regard to the provisions of any such code in coming to any decision on publicity.

(2) The Department may revise or withdraw a code issued under this section.

(3) The Department shall before issuing, revising or withdrawing a code consult such councils, such associations or bodies representative of councils and such other associations or public bodies, as appear to the Department to be desirable.

(4) A code shall not be issued or revised unless a draft of it has been laid before and approved by a resolution of the Assembly.

#### **Separate account of expenditure on publicity.**

**115C.**—(1) A council shall keep a separate account of its expenditure on publicity.

(2) Any person interested may at any reasonable time and without payment inspect the account and make copies of it or any part of it.

(3) A person having custody of the account who intentionally obstructs a person in the exercise of the rights conferred by subsection (2) shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale.

(4) The Department may by order provide that subsection (1) does not apply to publicity or expenditure of a prescribed description.

(5) Before making an order under subsection (4) the Department shall consult such councils, such associations or bodies representative of councils and such other associations or public bodies as appear to the Department to be desirable.

#### **Sections 115A to 115C: supplementary provisions.**

**115D.**—(1) Sections 115A to 115C apply to any publicity expressly or impliedly authorised by any statutory provision, including sections 107 to 110 and 115.

(2) Nothing in sections 115A to 115C shall be construed as applying to anything done by a council in the discharge of its duties under sections 23 to 27.”

(2) In section 107 of the principal Act (contributions for development of trade, tourism and cultural activities)—

- (a) at the beginning there shall be inserted “(1)”; and
- (b) at the end there shall be added—

“(2) A council may contribute under subsection (1)(a) towards the expenses of a voluntary body incurred on publicity only where the publicity is incidental to the main purpose for which the contribution is given.” .

(3) In section 108 of the principal Act (contributions to other voluntary bodies)—

- (a) at the beginning there shall be inserted “(1)”;
- (b) at the end there shall be added—

“(2) A council may contribute under subsection (1) towards the funds of a voluntary body in respect of publicity only where the publicity is incidental to the main purpose for which the contribution is given.” .

(4) In section 110 of the principal Act (information centres) for “local government matters affecting the district” there shall be substituted “matters relating to the functions of the council” .

(5) After section 148(3) of the principal Act (general interpretation) there shall be inserted—

“(4) For the purposes of this Act references to “publicity”, “publish” and “publication” are references to any communication, in whatever form, addressed to the public at large or to a section of the public.” .

**The Staff Commission**

**42.** In Schedule 3 to the principal Act (the Staff Commission) after paragraph 2 there shall be inserted—

“**2A.** The Staff Commission may make payments to its members for, or in relation to anything done in connection with, service as members of the Staff Commission and such payments shall be of an amount or rate to be determined by the Department with the approval of the Department of Finance and Personnel but not exceeding the amount or rate specified in or determined under the regulations under section 36(1).” .

**Local Government Boundaries Commissioner**

**43.** <sup>F7</sup> .....

**F7** [Art. 43](#) repealed (17.5.2006) by [Local Government \(Boundaries\) \(Northern Ireland\) Order 2006 \(S.I. 2006/1253 \(N.I. 8\)\)](#), arts. 1(2), 5(5), [Sch. 2](#)

**Joint Committees**

**44.** In Schedule 7 to the principal Act (provisions applied to Joint Committees) the following entries shall be inserted at the appropriate place in numerical order—

22(2)#(4)	Duty to adopt certain procedural standing orders.
77A	Confidentiality of officers' records.
107	Contributions for development of trade, tourism, and cultural activities.
108	Contributions to other voluntary bodies.
110	Information centres.

115	Expenditure for special purposes.
115A	Prohibition of political publicity.
115B	Codes of recommended practice as regards publicity.
115C	Separate account of expenditure on publicity.
115D	Sections 115A to 115C: supplementary provisions.

### Repeal of certain provisions

45. The following provisions of the principal Act shall cease to have effect—
- section 89 (laying of summary accounts before the Assembly);
  - in section 129(1) (default of council) the words “after causing a local or other inquiry to be held or an investigation to be made”.

Miscellaneous amendments of other statutory provisions

### Burial grounds

46. In section 172 of the Public Health (Ireland) Act 1878<sup>F8</sup> (meeting to determine whether burial ground shall be provided) the word “special” shall cease to have effect.

**F8** 1978 c. 52

### Term of office of members of district councils and casual vacancies

47.—(1) Section 11 of the Electoral Law Act (Northern Ireland) 1962<sup>F9</sup> (election and term of office of members of district councils) shall have effect subject to the following provisions of this Article.

(2) In subsection (2)(b) and (c) for “day next after” there shall be substituted “fourth day after”.

(3) For subsection (5) there shall be substituted—

“(5) A casual vacancy shall be deemed to have occurred—

- (a) if it is a vacancy to which subsection (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 subsection (4)(c) applies, on the date of the determination;

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.”

**F9** 1962 c. 14 (NI)

*Art. 48 rep. by 2002 NI 3*

*Art. 49 rep. by 2002 NI 3*

### Physiotherapists and chiropodists practising acupuncture

**50.**—(1) Article 13 of the Local Government (Miscellaneous Provisions) (Northern Ireland) Order 1985<sup>F10</sup> (acupuncture) shall have effect subject to the provisions of this Article.

(2) In paragraph (8) after “dentist” there shall be inserted “or a chartered physiotherapist or a state registered physiotherapist or a state registered chiropodist”.

(3) At the end of paragraph (8) there shall be added—

“(9) In this Article—

“chartered physiotherapist” means a member of the Chartered Society of Physiotherapy;

“state registered physiotherapist” means a person registered as a physiotherapist under section 2 of the Professions Supplementary to Medicine Act 1960;

“state registered chiropodist” means a person registered as a chiropodist under section 2 of that Act of 1960.”.

<b>F10</b> 1985 NI 15
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### Supply of computer software

**51.**—(1) Article 20 of the Local Government (Miscellaneous Provisions) (Northern Ireland) Order 1985 (use of spare capacity of computers of council) shall have effect subject to the following provisions of this Article.

(2) After paragraph (1) there shall be inserted—

“(1A) If a council has developed software for the purpose mentioned in paragraph (1) the council may enter into agreements with other persons for the supply by the council of the software.” .

(3) In paragraph (2) after “services” shall be inserted “or supply the software”.

(4) In paragraph (3) at the end there shall be added “ and

“software” means instructions required by a computer to perform intended tasks.”.

### Entertainments licence

**52.**—(1) Schedule 1 to the Local Government (Miscellaneous Provisions) (Northern Ireland) Order 1985 (licensing of places of entertainment) shall have effect subject to the provisions of this Article.

(2) After paragraph 7 there shall be inserted—

“**7A.** An applicant for the variation of the terms, conditions or restrictions on or subject to which an entertainments licence is held shall pay such fee as the Department may determine.”.

(3) In paragraph 10(4)(a) for “Registration of Clubs Act (Northern Ireland) 1967” there shall be substituted “Registration of Clubs (Northern Ireland) Order 1987”.

*Article 53—Repeals*

**Changes to legislation:**

There are currently no known outstanding effects for the The Local Government (Miscellaneous Provisions) (Northern Ireland) Order 1992, PART V.