



Local Government and Housing Act 1989

1989 CHAPTER 42

PART I **E+W+S**

LOCAL AUTHORITY MEMBERS, OFFICERS, STAFF AND COMMITTEES ETC.

Appointment and management etc. of staff

7 All staff to be appointed on merit. **E+W+S**

- (1) Every appointment of a person to a paid office or employment under—
 - (a) a local authority or parish or community council in England and Wales, or
 - (b) a local authority in Scotland,shall be made on merit.
- (2) Subsection (1) above applies to all appointments made by, or by any committee of, a local authority or parish or community council, whether made under section 112 of the ^{M1}Local Government Act 1972 or section 64 of the ^{M2}Local Government (Scotland) Act 1973 (appointment of staff) or otherwise, but has effect subject to—
 - (a) sections 9 and 12 of the ^{M3}Disabled Persons (Employment) Act 1944 (quotas and reserved employment);
 - (b) section 18 of the ^{M4}Fire Services Act 1947 (regulations as to appointment etc. of chief officers and fire brigades);
 - (c) section 7 of the ^{M5}Sex Discrimination Act 1975 (discrimination permitted in relation to employment where sex of employee is a genuine occupational qualification);
 - (d) section 5 of the ^{M6}Race Relations Act 1976 (discrimination permitted in relation to employment where being of a particular racial group is a genuine occupational qualification); and
 - (e) section 113 of the ^{M7}Local Government Finance Act 1988 and section 6 above (qualifications of officers responsible for administration of financial affairs of certain authorities).

Status: Point in time view as at 08/05/1992.

Changes to legislation: Local Government and Housing Act 1989, Cross Heading: Appointment and management etc. of staff is up to date with all changes known to be in force on or before 09 September 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (3) This section shall come into force at the expiry of the period of two months beginning on the day this Act is passed.

Modifications etc. (not altering text)

- C1** S. 7 applied (S.) (*temp.* 6.4.1995 to 1.4.1996) by S.I. 1995/789, art. 2, **Sch. para. 11**
 S. 7 extended (E.W.) (19.9.1995) by 1995 c. 25, ss. 63(5), 125(2), **Sch. 7 para. 13(7)** (with ss. 7(6), 115, 117, Sch. 8 para. 7)

Marginal Citations

- M1** 1972 c. 70.
M2 1973 c. 65.
M3 1944 c. 10.
M4 1947 c. 41.
M5 1975 c. 65.
M6 1976 c. 74.
M7 1988 c. 41.

8 Duty to adopt standing orders with respect to staff. E+W+S

- (1) The Secretary of State may by regulations require relevant authorities, subject to such variations as may be authorised by the regulations—
- (a) to incorporate such provision as may be prescribed by the regulations in standing orders relating to their staff; and
 - (b) to make or refrain from making such other modifications of any such standing orders as may be so prescribed.
- (2) For the purposes of this section standing orders relate to the staff of a relevant authority if they make provision for regulating—
- (a) the appointment of persons to paid office or employment under the authority; or
 - (b) the dismissal of persons holding such office or employment and the taking of other disciplinary action against such persons.
- (3) Without prejudice to the generality of subsection (1) above, regulations under this section may require a relevant authority's standing orders—
- (a) so to restrict the manner of exercising the power to take steps for or towards the selection of candidates for interview, or for appointment, as to make it exercisable only by the authority themselves, by a committee or sub-committee of the authority or by particular officers of the authority;
 - (b) to restrict the power of the authority or any of their committees or sub-committees—
 - (i) to give directions to persons making appointments on their behalf as to the identity of the individuals to be appointed; or
 - (ii) otherwise to interfere with the making of appointments by such persons;
 - (c) to require the monitoring officer of the authority to prepare a report to the authority in respect of every proposed appointment of a person to a politically restricted post;

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- (d) to require every such report to state whether, in the opinion of the monitoring officer, the proposed appointment can be made—
 - (i) without any contravention of any provision made by or under this Part; and
 - (ii) without any matter being taken into account which could not properly be taken into account;and, if in his opinion it cannot be so made, his reasons; and
 - (e) to prohibit the authority or any committee, sub-committee or other person acting on their behalf from dismissing or taking other disciplinary action against a person holding office or employment under the authority except in accordance with recommendations contained in a report made to the authority by an independent person of such a description as is prescribed by the regulations.
- (4) Regulations under this section may contain such incidental provision and such supplemental, consequential and transitional provision in connection with their other provisions as the Secretary of State considers appropriate; and that provision may include—
- (a) provision which, for the purposes of any such restriction as is mentioned in subsection (3) above, makes modifications of any enactment with respect to the delegation of a relevant authority's functions;
 - (b) provision which (with or without modifications) applies provisions of section 5 above in relation to any report prepared in consequence of regulations made by virtue of subsection (3)(c) above;
 - (c) provision specifying the consequences—
 - (i) in relation to any appointment or contract of employment;
 - (ii) in relation to any proceedings on a complaint to an industrial tribunal; and
 - (iii) in relation to any expenditure incurred by the authority,of any contravention of standing orders made in pursuance of the regulations; and
 - (d) without prejudice to section 190(1) below, special provision in relation to the appointment of persons in pursuance of section 9 below and in relation to the appointment of persons for the purposes of functions exercised by joint committees on which relevant authorities are represented.
- (5) In this section “relevant authority”—
- (a) in relation to England and Wales, means a local authority of any of the descriptions specified in paragraphs (a) to (e) of section 21(1) below; and
 - (b) in relation to Scotland, means a regional, islands or district council.

Modifications etc. (not altering text)

- C2** S. 8 applied (S.) (*temp.* 6.4.1995 to 31.3.1996) by S.I. 1995/789, art. 2, Sch. entry 11
S. 8 with the omission of subsection (4)(c) extended (E.W.) (19.9.1995) by 1995 c. 25, ss. 63(5), 125(2), Sch. 7 para. 13(7)(c) (with ss. 7(6), 115, 117, Sch. 8 para. 7)

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9 Assistants for political groups. **E+W+S**

- (1) Nothing in section 7(1) above or in any enactment, standing order or rule of law by virtue of which it is unlawful for a relevant authority or any committee or sub-committee of such an authority to have regard to any person's political activities or affiliations in determining whether he should be appointed to any paid office or employment under the authority shall apply to the appointment of a person in pursuance of this section.
- (2) An appointment is an appointment in pursuance of this section if—
 - (a) the appointment is made for the purpose of providing assistance, in the discharge of any of their functions as members of a relevant authority, to the members of any political group to which members of the authority belong;
 - (b) the terms of the appointment comply with subsection (3) below;
 - (c) the appointment is to one of not more than three posts which a relevant authority have decided to create for the purposes of this section; and
 - (d) each of those posts falls, under the standing orders of the authority, to be filled from time to time in accordance with the wishes of a political group to which the post has been allocated under those standing orders.
- (3) The terms on which any person is appointed to or holds any appointment in pursuance of this section must be such as secure that the annual rate of remuneration for the post is less than the relevant amount and that the appointment terminates at or before the end of—
 - (a) in the case of a post under an authority in England and Wales, the day in the appropriate year on which the authority hold the meeting which they are required to hold in pursuance of paragraph 1 of Part I of Schedule 12 to the ^{M8}Local Government Act 1972 (annual meeting of principal councils); and
 - (b) in the case of a post under an authority in Scotland, the first day after the appointment on which a meeting is held in pursuance of the requirement under paragraph 1 of Schedule 7 to the ^{M9}Local Government (Scotland) Act 1973 that a meeting is held within twenty-one days from the date of an election.
- (4) For the purposes of subsection (3) above the annual rate of remuneration for a post under a relevant authority is less than the relevant amount if the annual rate of remuneration in respect of the post—
 - (a) is less than £13,500 or such higher amount as the Secretary of State may by order made by statutory instrument specify; and
 - (b) where that post is a part time post, would be less than that amount if it were a full time post and carried remuneration at the same rate;
 and a statutory instrument containing an order under this subsection shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (5) The standing orders of a relevant authority the members of which are divided into different political groups shall, for the purposes of subsection (2)(d) above—
 - (a) prohibit the making of an appointment to any post allocated to a political group until the authority have allocated a post to each of the groups which qualify for one;
 - (b) prohibit the allocation of a post to a political group which does not qualify for one; and
 - (c) prohibit the allocation of more than one post to any one political group.

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- (6) Subject to subsection (7) below, where the members of a relevant authority are divided into different political groups, a group shall qualify for a post if—
- (a) the membership of that group comprises at least one-tenth of the membership of the authority;
 - (b) the number of the other groups (if any) which are larger than that group does not exceed two; and
 - (c) where the number of the other groups which are the same size as or larger than that group exceeds two, the authority have determined that that group should be a group to which a post is allocated;
- and it shall be the duty of a relevant authority, before making any allocation for the purposes of this section in a case in which there are groups which would qualify for posts if paragraph (c) above were disregarded, to make such determinations under that paragraph as secure that there are no more nor less than three groups which do qualify for a post.
- (7) Where the members of a relevant authority are divided into political groups only one of which has a membership that comprises one-tenth or more of the membership of the authority—
- (a) the groups qualifying for a post shall be that group and one other group; and
 - (b) the other group shall be the one with the next largest membership or, in a case in which there is more than one group with the next largest membership, such one of those groups as may be determined by the authority;
- and, in such a case, it shall be the duty of the authority to determine which of the groups with the next largest membership is to qualify for a post before making any allocation for the purposes of this section to the group with the largest membership.
- (8) Neither a relevant authority nor any committee or sub-committee of a relevant authority shall exercise any power under—
- (a) section 101 of the ^{M10}Local Government Act 1972 (delegation); or
 - (b) section 56 of, or Schedule 10 or 20 to, the ^{M11}Local Government (Scotland) Act 1973 (which makes corresponding provision for Scotland),
- so as to arrange for the discharge of any of the authority's functions by any person who holds a post under the authority to which he was appointed in pursuance of this section.
- (9) No person holding any office or employment under a relevant authority shall be required to work under the direction of a person holding a post to which he was appointed in pursuance of this section except for the purpose of providing that person, or the political group to which his post is allocated, with secretarial or clerical services.
- (10) Without prejudice to section 8 above, the Secretary of State may, for the purposes of this section and any standing orders relating to appointments in pursuance of this section, by regulations make provision—
- (a) as to the circumstances in which the members of a relevant authority are to be treated as divided into different political groups;
 - (b) as to the persons who are to be treated as members of such a group and as to when a person is to be treated as having ceased to be a member of such a group;
 - (c) requiring the question whether a person is or is not a member of a political group to be determined in such manner as may be provided for by or under the regulations;

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- (d) requiring a relevant authority from time to time to review allocations made for the purposes of this section;
- (e) specifying the manner in which, and times at which, the wishes of a political group are to be expressed and the consequences of a failure by such a group to express its wishes;

and regulations under this section may contain such incidental provision and such supplemental, consequential and transitional provision in connection with their other provisions as the Secretary of State considers appropriate.

(11) In this section—

“appropriate year”, in relation to a post held by any person under a relevant authority, means—

- (a) where the authority is one in relation to which provision for whole council elections has been made by virtue of section 7(4)(a) or 26(2)(a) of the^{M12}Local Government Act 1972, the period of twelve months beginning with the first such election to be held after that person is appointed to that post; and
- (b) in any other case, the period of twelve months beginning with the third anniversary of that person’s appointment to that post;

“membership”, in relation to a relevant authority, means the number of persons who are for the time being members of the authority;

“relevant authority”—

- (a) in relation to England and Wales, means the council of any county, district or London borough; and
- (b) in relation to Scotland, means a regional, islands or district council.

Marginal Citations

- M8** 1972 c. 70.
- M9** 1973 c. 65.
- M10** 1972 c. 70.
- M11** 1973 c. 65.
- M12** 1972 c. 70.

10 Limit on paid leave for local authority duties. E+W+S

(1) Notwithstanding anything in subsection (4) of section 29 of the^{M13}Employment Protection (Consolidation) Act 1978 (conditions of time off for public duties), where—

- (a) a local authority permit an employee of theirs to take time off for the purpose of performing the duties of a member of a relevant council; and
- (b) those duties do not include the duties of chairman of the council,

it shall be unlawful for the authority to make any payment of remuneration or other payment to that employee in respect of so much (if any) of any time off for that purpose as is in excess of two hundred and eight hours in any one financial year and is time off to which the employee would not be entitled apart from his membership of that council.

(2) In this section—

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“chairman”, in relation to a relevant council, includes any corresponding office the holder of which is referred to as mayor or Lord Mayor or by any other description;

“employee” has the same meaning as in the ^{M14}Employment Protection (Consolidation) Act 1978;

“financial year” means the twelve months ending with 31st March; and

“relevant council” means the council of any county, district or London borough, the Common Council of the City of London, a parish or community council or any council in Scotland which is a local authority for the purposes of subsection (1) of section 29 of that Act (time off for public duties);

and subsection (3) of that section (meaning of duties of a member of a body) shall apply for the purposes of this section as it applies for the purposes of that section.

Modifications etc. (not altering text)

- C3** S. 10 applied (S.) (*temp.* 6.4.1995 to 1.4.1996) by S.I. 1995/789, art. 2, Sch. entry 11
S. 10 extended (E.W.) (19.9.1995) by 1995 c. 25, ss. 63(5), 125(2), Sch. 7 para. 11(3) (with ss. 7(6), 115, 117, Sch. 8 para. 7)

Marginal Citations

- M13** 1978c. 44.
M14 1978 c.44.

11 Confidentiality of staff records. **E+W+S**

- (1) Nothing in section 17 of the ^{M15}Local Government Finance Act 1982 or section 79 of the ^{M16}Local Government Act 1985 (public inspection of accounts etc.) or in section 101 or 106 of the ^{M17}Local Government (Scotland) Act 1973 (which makes corresponding provision for Scotland) shall entitle any person—
- to inspect so much of any document as contains personal information about a member of the relevant body’s staff; or
 - to require any such information to be disclosed in answer to any question.
- (2) Information shall be regarded as personal information about a member of the relevant body’s staff if it relates specifically to a particular individual and is available to that body for reasons connected with the fact—
- that that individual holds or has held any office or employment under that body; or
 - that payments or other benefits in respect of any office or employment under any other person are or have been made or provided to that individual by that body.
- (3) In this section—
- “document” includes accounts, books, deeds, contracts, bills, vouchers and receipts; and
- “relevant body” in relation to accounts which are required to be audited in accordance with Part III of the said Act of 1982 or Part VII of the said Act of 1973, means the body whose accounts are required to be audited or, as the case may be, the Common Council of the City of London;

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and references in this section to a payment made or benefit provided to an individual in respect of any office or employment include references to a payment made or benefit provided to him in respect of his ceasing to hold the office or employment.

- (4) This section shall have effect only in relation to—
- (a) the inspection of, or of documents relating to, accounts for periods beginning on or after 1st April 1990; and
 - (b) the disclosure of information in answer to questions about such accounts.

Modifications etc. (not altering text)

C4 S. 11 applied (S.) (*temp.* 6.4.1995 to 1.4.1996) by S.I. 1995/789, art. 2, Sch. entry 11

Marginal Citations

M15 1982 c. 32.

M16 1985 c. 51.

M17 1973c. 65.

12 Conflict of interest in staff negotiations. E+W+S

(1) It shall be the duty of a local authority to secure that, so far as practicable, the interests of that authority in any negotiations with respect to the terms and conditions on which persons in local authority employment hold office or are employed are never represented, whether directly or indirectly by, or by persons who include—

- (a) a person who is both a member of the authority and in such employment; or
- (b) a person who is both a member of the authority and an official or employee of a trade union whose members include persons in local authority employment.

(2) In this section—

“member”, in relation to a trade union, includes any person who is a member of that union within the meaning of the ^{M18}Employment Act 1988; and

“official” and “trade union” have the same meanings as in the ^{M19}Trade Union and Labour Relations Act 1974;

and a person shall be treated for the purposes of this section as in local authority employment if he holds any paid office or employment under a local authority or any such paid office or employment under any other person as, by virtue of section 80(1)(a) of the ^{M20}Local Government Act 1972 or section 31(1)(a) of the ^{M21}Local Government (Scotland) Act 1973, disqualifies him for membership of any authority.

(3) This section shall come into force at the expiry of the period of two months beginning on the day this Act is passed.

Marginal Citations

M18 1988 c.19.

M19 1974 c.52.

M20 1972 c. 70.

M21 1973 c. 65.

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