



# Local Government Act 1972

## 1972 CHAPTER 70

### PART V

#### GENERAL PROVISIONS AS TO MEMBERS AND PROCEEDINGS OF LOCAL AUTHORITIES

##### *Acceptance, resignation and vacation of office, and casual vacancies*

#### **83 Declaration of acceptance of office.**

- (1) The person elected to any of the following offices, that is to say, the office of chairman, vice-chairman, [<sup>F1</sup>presiding member, deputy presiding member,]<sup>F2</sup> . . . councillor [<sup>F3</sup>or elected mayor] of the council of a county [<sup>F4</sup>, county borough], district or London borough <sup>F5</sup> . . . shall not, unless he has made a declaration of acceptance of office in a form prescribed by [<sup>F6</sup>an order made by the Secretary of State], and the declaration has within two months from the day of the election been delivered to the proper officer of the council, act in the office except for the purpose of taking such a declaration.
- (2) If such a declaration is not made and delivered to the proper officer within the appointed time, the office of the person elected shall at the expiration of that time become vacant.
- (3) The declaration shall be made before either—
  - (a) two members of the council to which the declarant is elected; or
  - [<sup>F7</sup>(aa) an elected mayor of the council to which the declarant is elected; or
  - (b) the proper officer of the council; or
  - (c) a justice of the peace or magistrate in the United Kingdom, the Channel Isles or the Isle of Man; or
  - (d) a commissioner appointed to administer oaths in the [<sup>F8</sup>Senior Courts].
- <sup>F9</sup>(3A) . . . . .
- (4) A person elected to the office of chairman of a parish or community council or parish or community councillor shall—
  - (a) in the case of the chairman, at the meeting at which he is elected;

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- (b) in the case of a councillor, before or at the first meeting of the parish or community council after his election; or
- (c) in either case if the council at that meeting so permit, before or at a later meeting fixed by the council;

make in the presence of a member of the council or of the proper officer of the council and deliver to the council a declaration of acceptance of office in a form prescribed by <sup>[F6]</sup>an order made by the Secretary of State], and if he fails to do so his office shall thereupon become vacant.

- (5) Any person before whom a declaration is authorised to be made under this section may take the declaration.

#### Textual Amendments

- F1** Words in s. 83(1) inserted (30.9.2013) by [Local Government \(Democracy\) \(Wales\) Act 2013 \(anaw 4\), ss. 51\(5\), 75\(2\)\(d\)](#)
- F2** Words repealed by [S.I. 1977/1710, art. 3\(c\)](#)
- F3** Words in s. 83(1) inserted (E.) (26.10.2000) and (W.) (28.7.2001) by [2000 c. 22, ss. 46, 108\(4\), Sch. 3 para. 9\(1\)\(2\); S.I. 2000/2849, art. 2\(e\)](#)
- F4** Words in s. 83(1) inserted (3.4.1995) by [1994 c. 19, s. 66\(5\), Sch. 15 para. 23 \(with ss. 54\(5\)\(7\), 55\(5\), Sch. 17 paras. 22\(1\), 23\(2\)\); S.I. 1995/852, art. 9\(1\), Sch. 5](#)
- F5** Words repealed by [Local Government Act 1985 \(c. 51, SIF 81:1\), ss. 1, 102, Sch. 17](#)
- F6** Words substituted by [Local Government and Housing Act 1989 \(c. 42, SIF 81:1, 2\), s. 30\(2\)](#)
- F7** S. 83(3)(aa) inserted (E.) (26.10.2000) and (W.) (28.7.2001) by [2000 c. 22, ss. 46, 108\(4\), Sch. 3 para. 9\(1\)\(3\); S.I. 2000/2849, art. 2\(e\)](#)
- F8** Words in s. 83(3)(d) substituted (1.10.2009) by [Constitutional Reform Act 2005 \(c. 4\), ss. 59, 148, Sch. 11 para. 4\(1\)\(2\)\(3\); S.I. 2009/1604, art. 2](#)
- F9** S. 83(3A) (inserted by [Local Government Act 1985 \(c. 51, SIF 81:1\), s. 84, Sch. 14 Pt. I para. 5](#)) repealed by [Education Reform Act 1988 \(c. 40, SIF 41:1\), ss. 231\(7\), 235\(6\), 237\(2\), Sch. 13 Pt. I](#)

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

- C1** Pt. 5 applied (23.5.2019) by [The Buckinghamshire \(Structural Changes\) Order 2019 \(S.I. 2019/957\), arts. 1, 15\(1\)](#)
- C2** Pt. 5 applied (14.2.2020) by [The Northamptonshire \(Structural Changes\) Order 2020 \(S.I. 2020/156\), arts. 1, 17\(1\)](#)
- C3** S. 83 modified (5.3.2008) by [The Cheshire \(Structural Changes\) Order 2008 \(S.I. 2008/634\), art. 9\(10\)](#)
- C4** S. 83 amended by [Local Government and Housing Act 1989 \(c. 42, SIF 81:1\), s. 31\(7\)](#)
- C5** S. 83 excluded by [Local Government Act 1985 \(c. 51, SIF 81:1\), ss. 84\(2\)\(b\), 86\(9\)](#)  
S. 83 excluded (27.11.2001temp. until 27.7.2002) by [S.I. 2001/3576, art. 3\(1\)\(b\)](#)
- C6** S. 83(1)-(3) modified (14.2.2020) by [The Northamptonshire \(Structural Changes\) Order 2020 \(S.I. 2020/156\), arts. 1, 20\(15\)\(16\)](#)

## 84 Resignation.

<sup>[F10]</sup>(1) A person elected to any office under this Act <sup>[F11]</sup>or elected as an elected mayor] may at any time resign his office by written notice delivered—

- (a) except in a case falling within paragraph (b), (c) or (d) below, to the proper officer of the council;
- (b) in the case of a person elected to a corporate office in a London borough, to the proper officer of the borough;

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- (c) in the case of a parish or community councillor, to the chairman of the parish or community council;
- (d) in the case of a chairman of a parish or community council or of a parish meeting, to the council or the meeting, as the case may be;

and his resignation shall take effect upon the receipt of the notice by the person or body to whom it is required to be delivered.

[<sup>F12</sup>(2) A person elected or appointed to an office under Part <sup>F13</sup> . . . IV of the Local Government Act 1985 may at any time resign his office by written notice delivered to the proper officer of the authority of which he is a member and his resignation shall take effect upon the receipt of the notice by that officer.]

#### Textual Amendments

- F10** S. 84 renumbered as s. 84(1) by [Local Government Act 1985 \(c. 51, SIF 81:1\)](#), s. 84, **Sch. 14 para. 6**
- F11** Words in s. 84(1) inserted (E.) (26.10.2000) and (W.) (28.7.2001) by [2000 c. 22, ss. 46, 108\(4\)](#), **Sch. 3 para. 10(1)(2)**; [S.I. 2000/2849, art. 2\(e\)](#)
- F12** S. 84(2) inserted by [Local Government Act 1985 \(c. 51, SIF 81:1\)](#), s. 84, **Sch. 14 Pt. I para. 6**
- F13** Words repealed by [Education Reform Act 1988 \(c. 40, SIF 41:1\)](#), ss. 231(7), 235(6), 237(2), **Sch. 13 Pt. I**

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

- C7** S. 84 applied (10.01.1992) by [S.I. 1991/2913, arts. 6, 8, Sch. 1](#).  
S. 84: certain functions transferred (subject to modifications) (10.01.1992) by [S.I. 1991/2913, arts. 6, 8, Sch. 1](#).  
S. 84 applied (with modifications)(8.1.1996) by [1995 c. x, ss. 1\(3\), 44, Sch. Pt. I](#)
- C8** S. 84 applied (07.08.1991) by [S.I. 1991/1773, arts. 6, 8, Sch. 1](#).  
S. 84: certain functions transferred (subject to modifications) (07.08.1991) by [S.I. 1991/1773, arts. 6, 8, Sch. 1](#)
- C9** S. 84 applied (with modifications) (E.) (24.3.2011) by [The Hull and Goole Port Health Authority Order 2011 \(S.I. 2011/939\), arts. 1\(1\), 7, Sch. 1](#)
- C10** S. 84 applied (with modifications) (E.) (31.3.2017) by [The Weymouth Port Health Authority Order 2017 \(S.I. 2017/558\), arts. 1\(1\), 8, Sch. 1](#)
- C11** S. 84(2) amended by [S.I. 1985/1884, arts. 10, 11\(3\), Sch. 3 para. 2](#)
- C12** S. 84(2) modified by [S.I. 1987/2110, art. 2\(2\) Sch. 1 para. 4](#)

## 85 Vacation of office by failure to attend meetings.

- (1) Subject to subsections (2) and (3) below, if a member of a local authority fails throughout a period of six consecutive months from the date of his last attendance to attend any meeting of the authority, he shall, unless the failure was due to some reason approved by the authority before the expiry of that period, cease to be a member of the authority.
- (2) Attendance as a member at a meeting of any committee or sub-committee of the authority, or at a meeting of any joint committee, joint board or other body by whom for the time being any of the functions of the authority are being discharged, or who were appointed to advise the authority on any matter relating to the discharge of their functions, and attendance as representative of the authority at a meeting of any body of persons, shall be deemed for the purposes of subsection (1) above to be attendance at a meeting of the authority.

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<sup>F14</sup>(2A) Subject to subsections (2B) and (3), if a member of a local authority which are operating executive arrangements, who is also a member of the executive of that local authority, fails throughout a period of six consecutive months from the date of his last attendance to attend any meeting of the executive, he shall, unless the failure was due to some reason approved by the local authority before the expiry of that period, cease to be a member of the local authority.

(2B) For the purposes of this section—

- (a) the discharge by a member, acting alone, of any function which is the responsibility of the executive; and
- (b) in respect of a mayor and cabinet executive or leader and cabinet executive, attendance as a member at a meeting of a committee of the executive,

shall each be deemed to be attendance at a meeting of the executive.]

(3) A member of any branch of Her Majesty’s naval, military or air forces when employed during war or any emergency on any naval, military or air force service, and a person whose employment in the service of Her Majesty in connection with war or any emergency is such as, in the opinion of the Secretary of State, to entitle him to relief from disqualification on account of absence, shall not cease to be a member of a local authority by reason only of a failure to attend meetings of the local authority <sup>F15</sup>or of a failure to attend meetings of the executive] if the failure is due to that employment.

<sup>F16</sup>(3A) Any period during which a member of a local authority is suspended or partially suspended under section 66, <sup>F17</sup>[<sup>F18</sup>... 73, 78 <sup>F17</sup>...] or 79 of the Local Government Act 2000 shall be disregarded for the purpose of calculating the period of six consecutive months under subsection (1) <sup>F19</sup>or (2A)] above (and, accordingly, a period during which a member fails to attend meetings of the authority <sup>F20</sup>or, as the case may be, meetings of the executive] that falls immediately before, and another such period that falls immediately after, a period of suspension or partial suspension shall be treated as consecutive).]

<sup>F21</sup>(3B) Subsections (3C) and (3D) apply for the purpose of calculating the period of six consecutive months under subsection (1) or (2A).

(3C) Any period during which a member of a local authority in Wales is exercising a right to absence under Part 2 of the Local Government (Wales) Measure 2011 is to be disregarded.

(3D) The following two periods are to be treated as consecutive—

- (a) the period during which a member of a local authority in Wales fails to attend meetings of the authority or, as the case may be, meetings of the executive that falls immediately before the period described in subsection (3C), and
- (b) the period that falls immediately after the period described in subsection (3C).]

<sup>F22</sup>(4) In this section “local authority” includes a joint authority <sup>F23</sup>, an economic prosperity board] <sup>F24</sup>and a combined authority] <sup>F25</sup>. . . ]

#### Textual Amendments

**F14** S. 85(2A)(2B) inserted (E.) (11.7.2001) by [S.I. 2001/2237, art. 7\(a\)](#) and (W.) (1.4.2002) by [S.I. 2002/808, art. 7\(a\)](#)

**F15** Words in s. 85(3) inserted (E.) (11.7.2001) by [S.I. 2001/2237, art. 7\(b\)](#) and (W.) (1.4.2002) by [S.I. 2002/808, art. 7\(b\)](#)

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- F16** S. 85(3A) inserted (E.) (19.12.2000) and (W.) (19.12.2000 with application in relation to police authorities in W. and otherwise 28.7.2001) by 2000 c. 22, ss. 107(1), 108(4), **Sch. 5 para. 9**; S.I. 2000/3335, **art. 2**
- F17** Words in s. 85(3A) repealed (1.7.2012 for specified purposes, 22.11.2012 in so far as not already in force) by **Localism Act 2011 (c. 20)**, s. 240(2), **Sch. 25 Pt. 5**; S.I. 2012/1463, art. 5(d) (with arts. 6, 7) (as amended (3.7.2012) by S.I. 2012/1714, art. 2); S.I. 2012/2913, arts. 1(2), 2(b)(c) (with arts. 3-6)
- F18** Words in s. 85(3A) substituted (1.4.2008) by **Local Government and Public Involvement in Health Act 2007 (c. 28)**, ss. **201(4)(a)**, 245; S.I. 2008/172, **art. 4(1)**
- F19** Words in s. 85(3A) inserted (E.) (11.7.2001) by S.I. 2001/2237, art. 7(c)(i) and (W.) (1.4.2002) by S.I. 2002/808, **art. 7(c)(i)**
- F20** Words in s. 85(3A) inserted (E.) (11.7.2001) by S.I. 2001/2237, art. 7(c)(ii) and (W.) (1.4.2002) by S.I. 2002/808, **art. 7(c)(ii)**
- F21** S. 85(3B)-(3D) inserted (30.4.2012) by **Local Government (Wales) Measure 2011 (nawm 4)**, ss. **31(2)**, 178(3); S.I. 2012/1187, art. 2(1)(c)
- F22** S. 85(4) inserted by **Local Government Act 1985 (c. 51, SIF 81:1)**, s. 84, **Sch. 14 Pt. 1 para. 7**
- F23** Words in s. 85(4) inserted (17.12.2009) by **Local Democracy, Economic Development and Construction Act 2009 (c. 20)**, ss. 119, 148(6), **Sch. 6 para. 13**; S.I. 2009/3318, **art. 2(c)**
- F24** Words in s. 85(4) substituted (26.5.2015) by **Deregulation Act 2015 (c. 20)**, s. 115(7), **Sch. 13 para. 6(7)(c)**; S.I. 2015/994, art. 6(g)
- F25** Words repealed by **Education Reform Act 1988 (c. 40, SIF 41:1)**, ss. 231(7), 235(6), 237(2), **Sch. 13 Pt. 1**

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

- C13** S. 85 applied by **Norfolk and Suffolk Broads Act 1988 (c. 4, SIF 81:1)**, ss. 9(10), 23(2), 27(2), **Sch. 4 para. 3**  
S. 85 applied (7.8.1991) by S.I. 1991/1773, arts. 6, 8, **Sch. 1**  
S. 85 applied (10.1.1992) by S.I. 1991/2913, arts. 6, 8, **Sch. 1**  
S. 85 applied (22.7.2004) by **The Cotswolds Area of Outstanding Natural Beauty (Establishment of Conservation Board) Order 2004 (S.I. 2004/1777)**, **art. 13**  
S. 85 applied (22.7.2004) by **The Chilterns Area of Outstanding Natural Beauty (Establishment of Conservation Board) Order 2004 (S.I. 2004/1778)**, **art. 13**
- C14** S. 85: certain functions transferred (subject to modifications) (7.8.1991) by S.I. 1991/1773, arts. 6, 8, **Sch. 1**  
S. 85: certain functions transferred (subject to modifications) (10.1.1992) by S.I. 1991/2913, arts. 6, 8, **Sch. 1**
- C15** S. 85 extended (19.9.1995) by 1995 c. 25, ss. 63(5), 125(2), **Sch. 7 para. 8** (with ss. 7(6), 115, 117, **Sch. 8 para. 7**)
- C16** S. 85 applied (with modifications) (E.) (24.3.2011) by **The Hull and Goole Port Health Authority Order 2011 (S.I. 2011/939)**, arts. 1(1), 7, **Sch. 1**
- C17** S. 85 applied (with modifications) (E.) (31.3.2017) by **The Weymouth Port Health Authority Order 2017 (S.I. 2017/558)**, arts. 1(1), 8, **Sch. 1**
- C18** S. 85(1) applied by 1959 c. xlvi s. 11(2) (as substituted (15.1.2014) by **Humber Bridge Act 2013 (c. vi)**, s. 1(1), **Sch. 1 para. 1**)
- C19** S. 85(1)(2)(3) applied (with modifications) (1.4.2015) by **The Dorset and Wiltshire Fire and Rescue Authority (Combination Scheme) Order 2015 (S.I. 2015/435)**, art. 1(2), **Sch. para. 17**
- C20** S. 85(4) modified by S.I. 1987/2110, art. 2(2), **Sch. 1 para. 3(c)**

## 86 Declaration by local authority of vacancy in office in certain cases.

[<sup>F26</sup>(1)] Where a member of a local authority—

- (a) ceases to be qualified to be a member of the authority; or

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- (b) becomes disqualified for being a member of the authority otherwise than <sup>[F27]</sup>under section 79 of the Local Government Act 2000 or section 34 of the Localism Act 2011 or by virtue of<sup>[F28]</sup>, a conviction or a breach of any provision of Part II of the <sup>M1</sup><sup>[F28]</sup>Representation of the People Act 1983]; or
- (c) ceases to be a member of the authority by reason of failure to attend meetings of the authority;

the authority shall, except in any case in which a declaration has been made by the High Court under this Part of this Act, forthwith declare his office to be vacant.

<sup>[F29]</sup>(2) In this section “local authority” includes a joint authority <sup>[F30]</sup>, an economic prosperity board<sup>[F31]</sup> and a combined authority<sup>[F32]</sup> . . .]

#### Textual Amendments

- F26** The provisions of s. 86 become s. 86(1) by [Local Government Act 1985 \(c. 51, SIF 81:1\)](#), s. 84, **Sch. 14 Pt. I para. 8**
- F27** Words in s. 86(1)(b) substituted (1.4.2015) by [Local Audit and Accountability Act 2014 \(c. 2\)](#), s. 49(1), **Sch. 12 para. 5**; S.I. 2015/841, art. 3(x)
- F28** Words substituted by [Representation of the People Act 1983 \(c. 2, SIF 42\)](#), **Sch. 8 para. 12**
- F29** S. 86(2) inserted by [Local Government Act 1985 \(c. 51, SIF 81:1\)](#), s. 84, **Sch. 14 Pt. I para. 8**
- F30** Words in s. 86(2) inserted (17.12.2009) by [Local Democracy, Economic Development and Construction Act 2009 \(c. 20\)](#), ss. 119, 148(6), **Sch. 6 para. 14**; S.I. 2009/3318, **art. 2(e)**
- F31** Words in s. 86(2) substituted (26.5.2015) by [Deregulation Act 2015 \(c. 20\)](#), s. 115(7), **Sch. 13 para. 6(7)(d)**; S.I. 2015/994, art. 6(g)
- F32** Words repealed by [Education Reform Act 1988 \(c. 40, SIF 41:1\)](#), ss. 231(7), 235(6), 237(2), **Sch. 13 Pt. I**

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

- C21** S. 86: functions of local authority not to be responsibility of an executive of the authority (E.) (16.11.2000) by virtue of [S.I. 2000/2853](#), reg. 2(1), **Sch. 1**
- C22** S. 86 applied (with modifications) (8.5.2017) by [The Greater Manchester Combined Authority \(Transfer of Police and Crime Commissioner Functions to the Mayor\) Order 2017 \(S.I. 2017/470\)](#), arts. 1(2), **11**
- C23** S. 86(1)(b) amended by: [Local Government \(Interim Provisions\) Act 1984 \(c. 53, SIF 81:1\)](#), s. **10(2)**; [Local Government Act 1985 \(c. 51, SIF 81:1\)](#), ss. **1**, 92(7); and [Education Reform Act 1988 \(c. 40, SIF 41:1\)](#), ss. **191(5)**, 231(7), 235(6)
- C24** S. 86(2) amended by [S.I. 1985/1884](#), art. 10, **Sch. 3 para. 1(d)**
- C25** S. 86(2) modified by [S.I. 1987/2110](#), art. 2(2), **Sch. 1 para. 3(d)**

#### Marginal Citations

- M1** [1983 c. 2.\(42\)](#).

## 87 Date of casual vacancies.

- (1) For the purpose of filling a casual vacancy in any office for which an election is held under this Act, the date on which the vacancy is to be deemed to have occurred shall be—
- (a) in the case of non-acceptance of office by any person who is required to make and deliver a declaration of acceptance of office, on the expiration of the period appointed under this Part of this Act for the delivery of the declaration;

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- (b) in the case of resignation, upon the receipt of the notice of resignation by the person or body to whom the notice is required to be delivered;
  - (c) in the case of death, on the date of death;
  - (d) in the case of a disqualification [<sup>F33</sup>by virtue of a] conviction, on the expiration of the ordinary period allowed for making an appeal or application with respect to the <sup>F34</sup>... conviction or, if an appeal or application is made, on the date on which that appeal or application is finally disposed of or abandoned or fails by reason of non-prosecution thereof;
  - (e) in the case of an election being declared void on an election petition, on the date of the report or certificate of the election court;
  - <sup>F35</sup>(ee) in the case of a disqualification under section <sup>F36</sup>... 79 of the Local Government Act 2000 [<sup>F37</sup>or section 34 of the Localism Act 2011 or], on the expiration of the ordinary period allowed for making an appeal or application with respect to the relevant decision [<sup>F38</sup>or order ] under that section or, if an appeal or application is made, on the date on which that appeal or application is finally disposed of or abandoned or fails by reason of non-prosecution thereof;]
  - (f) in the case of a person ceasing to be qualified to be a member of a local authority, or becoming disqualified, for any reason other than one mentioned in paragraphs (a) to [<sup>F39</sup>(ee)] above, or ceasing to be a member of a local authority by reason of failure to attend meetings, on the date on which his office is declared to have been vacated either by the High Court or by the local authority, as the case may be; and
  - <sup>F40</sup>(g) .....
- (2) Public notice of a casual vacancy in any such office as is referred to in subsection (1) above shall be given by the local authority in which the office exists; and the steps required to be taken to give public notice in accordance with section 232 below shall be taken—
- (a) in a case where the local authority declare the office to be vacant, immediately after the declaration; and
  - (b) in any other case, as soon as practicable after the date on which, by virtue of subsection (1) above, the vacancy is deemed to have occurred.

<sup>F41</sup>(3) .....

#### Textual Amendments

- F33** Words in s. 87(1)(d) substituted (1.4.2015) by [Local Audit and Accountability Act 2014 \(c. 2\)](#), s. 49(1), [Sch. 12 para. 6\(a\)](#); S.I. 2015/841, art. 3(x)
- F34** Words in s. 87(1)(d) omitted (1.4.2015) by virtue of [Local Audit and Accountability Act 2014 \(c. 2\)](#), s. 49(1), [Sch. 12 para. 6\(b\)](#); S.I. 2015/841, art. 3(x)
- F35** S. 87(1)(ee) inserted (E.) (19.12.2000) and (W.) (19.12.2000 with application in relation to police authorities in Wales otherwise 28.7.2001) by [2000 c. 22](#), ss. 107(1), 108(4), [Sch. 5 para. 11\(a\)](#); S.I. 2000/3335, [art. 2](#)
- F36** Words in s. 87(1)(ee) repealed (1.7.2012 for specified purposes, 22.11.2012 in so far as not already in force) by [Localism Act 2011 \(c. 20\)](#), s. 240(2), [Sch. 25 Pt. 5](#); S.I. 2012/1463, art. 5(d) (with arts. 6, 7) (as amended (3.7.2012) by S.I. 2012/1714, art. 2); S.I. 2012/2913, arts. 1(2), 2(b)(c) (with arts. 3-6)
- F37** Words in s. 87(1)(ee) inserted (1.7.2012) by [Localism Act 2011 \(c. 20\)](#), ss. [34\(11\)\(a\)](#), 240(2); S.I. 2012/1463, [art. 5\(c\)](#) (with arts. 6, 7) (as amended (3.7.2012) by S.I. 2012/1714, art. 2)
- F38** Words in s. 87(1)(ee) inserted (1.7.2012) by [Localism Act 2011 \(c. 20\)](#), ss. [34\(11\)\(b\)](#), 240(2); S.I. 2012/1463, [art. 5\(c\)](#) (with arts. 6, 7) (as amended (3.7.2012) by S.I. 2012/1714, art. 2)

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- F39** Words in s. 87(1)(f) substituted (E.) (19.12.2000) and (W.) (19.12.2000 with application in relation to police authorities in Wales otherwise 28.7.2001) by 2000 c. 22, ss. 107(1), 108(4), **Sch. 5 para. 11(b)**; S.I. 2000/3335, **art. 2**
- F40** S. 87(1)(g) repealed by S.I. 1977/1710, **art. 3(c)**
- F41** S. 87(3) (inserted by Local Government Act 1985 (c. 51, SIF 81:1), s. 84, **Sch. 14 Pt. I para. 9**) repealed by Education Reform Act 1988 (c. 40, SIF 41:1), ss. 231(7), 235(6), 237(2), **Sch. 13 Pt. I**

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

- C26** S. 87: functions of local authority not to be responsibility of an executive of the authority (E.) (16.11.2000) by virtue of S.I. 2000/2853, reg. 2(1), **Sch. 1**
- C27** S. 187(1)(d) amended by Local Government (Interim Provisions) Act 1984 (c. 53, SIF 81:1), **s. 10(2)**; by Local Government Act 1985 (c. 51, SIF 81:1), **s. 92(7)** and by Education Reform Act 1988 (c. 40, SIF 41:1), **ss. 191(5), 231(7), 235(6)**

**88 Filling of casual vacancy in case of chairman, etc.**

- (1) On a casual vacancy occurring in the office of chairman of any council <sup>F42</sup> . . . , an election to fill the vacancy shall be held not later than the next ordinary meeting of the council held after the date on which the vacancy occurs, or if that meeting is held within fourteen days after that date, then not later than the next following ordinary meeting of the council, and shall be conducted in the same manner as an ordinary election.
- (2) <sup>F43</sup> . . . , a meeting of the council for the election may be convened by the proper officer of the authority.
- <sup>F44</sup>(2A) . . . . .
- (3) In a parish not having a separate parish council, a casual vacancy in the office of chairman of the parish meeting shall be filled by the parish meeting, and a parish meeting shall be convened for the purpose of filling the vacancy forthwith.

**Textual Amendments**

- F42** Words repealed by S.I. 1977/1710, **art. 3(c)**
- F43** Words repealed by Statute Law (Repeals) Act 1978 (c. 45), s. 1(1), **Sch. 1 Pt. XII**
- F44** S. 88(2A) (inserted by Local Government Act 1985 (c. 51, SIF 81:1), s. 84, **Sch. 14 Pt. I para. 10(1)**) repealed by Education Reform Act 1988 (c. 40, SIF 41:1), ss. 231(7), 235(6), 237(2), **Sch. 13 Pt. I**

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

- C28** S. 88(1)(2) applied (07.08.1991) by S.I. 1991/1773, arts. 6, 8, **Sch. 1**  
 S. 88(1)(2): certain functions transferred (subject to modifications) (07.08.1991) by S.I. 1991/1773, arts. 6, 8, **Sch. 1**
- C29** S. 88(1)(2) applied (10.01.1992) by S.I. 1991/2913, arts. 6, 8, **Sch. 1**.  
 S. 88(1)(2): certain functions transferred (subject to modifications) (10.01.1992) by S.I. 1991/2913, arts. 6, 8, **Sch.1**.
- C30** S. 88(1)(2) applied (with modifications) (E.) (24.3.2011) by The Hull and Goole Port Health Authority Order 2011 (S.I. 2011/939), arts. 1(1), 7, **Sch. 1**
- C31** S. 88(1)(2) applied (with modifications) (E.) (31.3.2017) by The Weymouth Port Health Authority Order 2017 (S.I. 2017/558), arts. 1(1), 8, **Sch. 1**



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## **89 Filling of casual vacancies in case of councillors.**

- (1) Subject to the provisions of this section, on a casual vacancy occurring in the office of councillor for any principal area, an election to fill the vacancy shall be held—
  - (a) in a case in which the High Court or the council have declared the office to be vacant, within [<sup>F45</sup>thirty-five days] (computed in accordance with section 243(4) below) from the date of the declaration;
  - (b) in any other case, within [<sup>F45</sup>thirty-five days] (so computed) after notice in writing of the vacancy has been given to the proper officer of the authority by two local government electors for the area.
- (2) The day of election to fill a casual vacancy in any office mentioned in subsection (1) above shall be fixed by the returning officer <sup>F46</sup> . . .
- (3) Where a casual vacancy in any such office occurs within six months before the day on which the councillor whose office is vacant would regularly have retired, an election shall not be held under subsection (1) above unless on the occurrence of the vacancy (or in the case of a number of simultaneous vacancies, the occurrence of the vacancies) the total number of unfilled vacancies in the membership of the council exceeds one third of the whole number of members; and where an election under subsection (1) above is not held, the vacancy shall be filled at the next ordinary election.

<sup>F47</sup>(3A) . . . . .

- (4) Where more than one casual vacancy in the office of councillor of a district in which councillors are elected by thirds is filled at the same election, the person elected by the smallest number of votes shall be deemed to be elected in place of the councillor who would regularly have first retired, and the person elected by the next smallest number of votes shall be deemed to be elected in place of the councillor who would regularly have next retired and so with respect to the others; and if there has not been a contested election, or if any doubt arises, the order of retirement shall be determined by lot.
- (5) Where an election to fill one or more casual vacancies in the office of councillor of any such district is combined with an ordinary election of councillors, the following provisions shall apply—
  - (a) where an election is contested—
    - (i) the persons who are elected by the smallest numbers of votes, or if any relevant votes are equal such persons as are determined by lot, shall be deemed elected to fill the casual vacancies;
    - (ii) if the persons elected to fill the casual vacancies will hold office for different periods, the person elected by the smallest number of votes or, if the relevant votes are equal, such person as is determined by lot, shall hold office for the shorter period, and so with respect to the others;
  - (b) where the election is not contested—
    - (i) those declared elected (if fewer than the vacancies to be filled) shall be deemed elected to fill the vacancies in which they will hold office for the longest periods;
    - (ii) where there are two or more persons declared elected and they are to fill vacancies in which they will hold office for different periods, any retiring councillors elected shall be deemed elected to fill the vacancies in which they will hold office for the longest period, and the question which of the persons declared elected who are not retiring

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councillors is to be deemed elected to fill any of the vacancies not filled by retiring councillors shall be determined by lot.

- (6) A casual vacancy among parish or community councillors shall be filled by election or by the parish or community council in accordance with rules made under [<sup>F48</sup>section 36 of the Representation of the People Act 1983].
- (7) Where under this section any question is required to be determined by lot—
- (a) in the case of a contested election, the lot shall be drawn by the returning officer immediately after the question has arisen; and
  - (b) in any other case, the lot shall be drawn at the next meeting of the council after the question has arisen, and the drawing shall be conducted under the direction of the person presiding at the meeting.

#### Textual Amendments

- F45** Words substituted by [Representation of the People Act 1985 \(c. 50, SIF 42\)](#), **ss. 19(6)(c)**, 29 (by S.I. 1985/1080, **art. 4(5)**) it is provided that the amendment made by s. 19(6)(c) shall not have effect for the purposes of any vacancy which occurred before 16.2.87)
- F46** Words repealed by [Local Government Act 1985 \(c. 51, SIF 81:1\)](#), ss. 1, 102, **Sch. 17**
- F47** S. 89(3A) (inserted by [Local Government Act 1985 \(c. 51, SIF 81:1\)](#), s. 84, **Sch. 14 Pt. I para. 10(2)**) repealed by [Education Reform Act 1988 \(c. 40, SIF 41:1\)](#), ss. 231(7), 235(6), 237(2), **Sch. 13 Pt. I**
- F48** Words substituted by [Representation of the People Act 1983 \(c. 2, SIF 42\)](#), s. 206, **Sch. 8 para. 13**

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

- C32** Pt. 5 applied (26.5.2018) by [The Somerset West and Taunton \(Local Government Changes\) Order 2018 \(S.I. 2018/649\)](#), arts. 1, **17(1) Table**
- C33** Pt. 5 applied (26.5.2018) by [The Bournemouth, Dorset and Poole \(Structural Changes\) Order 2018 \(S.I. 2018/648\)](#), arts. 1, **36(1)**
- C34** Pt. 5 applied (26.5.2018) by [The Bournemouth, Dorset and Poole \(Structural Changes\) Order 2018 \(S.I. 2018/648\)](#), arts. 1, **21(1)**
- C35** S. 89 excluded by [Local Government Act 1985 \(c. 51, SIF 81:1\)](#), **ss. 84(2)(b)**, 86(9)
- C36** S. 89 modified (8.3.1995) by S.I. 1995/610, **art. 9(4)**  
S. 89 applied (with modifications)(1.11.1995) by S.I. 1995/1747, **art. 2**  
S. 89 applied (with modifications)(12.7.1995) by S.I. 1995/1769, **art. 12(2)**  
S. 89 modified (12.7.1995) by S.I. 1995/1770, **art. 14(3)**; S.I. 1995/1771, **art. 11(2)**; S.I. 1995/1772, **art. 10(2)**; S.I. 1995/1773, **art. 10(3)**; S.I. 1995/1774, **art. 10(3)**; S.I. 1995/1775, **art. 11(2)**; S.I. 1995/1776, **art. 10(2)**; S.I. 1995/1779, **art. 11(2)**  
S. 89 applied (with modifications)(1.3.1996) by S.I. 1996/507, **art. 10(2)**  
S. 89 applied (with modifications)(19.7.1996) by S.I. 1996/1865, **art. 8(2)**; S.I. 1996/1866, **art. 8(2)**; S.I. 1996/1867, **art. 11(2)**; S.I. 1996/1868, **art. 8(2)**; S.I. 1996/1875, **art. 9(2)**; S.I. 1996/1876, **art. 12(2)**; S.I. 1996/1878, **art. 11(2)**; S.I. 1996/1879, **art. 15(2)**
- C37** S. 89 excluded (26.2.2008) by [The Cornwall \(Structural Change\) Order 2008 \(S.I. 2008/491\)](#), **art. 12(2)**
- C38** S. 89 excluded (26.2.2008) by [The Shropshire \(Structural Change\) Order 2008 \(S.I. 2008/492\)](#), **art. 12(2)**
- C39** S. 89 excluded (5.3.2008) by [The Cheshire \(Structural Changes\) Order 2008 \(S.I. 2008/634\)](#), **art. 5(3)**
- C40** S. 89 excluded (5.3.2008) by [The Cheshire \(Structural Changes\) Order 2008 \(S.I. 2008/634\)](#), **art. 12(2)**
- C41** S. 89 excluded (28.3.2008) by [The Bedfordshire \(Structural Changes\) Order 2008 \(S.I. 2008/907\)](#), **art. 5(3)**
- C42** S. 89 excluded (28.3.2008) by [The Bedfordshire \(Structural Changes\) Order 2008 \(S.I. 2008/907\)](#), **art. 12(2)**

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- C43** S. 89 excluded (28.3.2008) by [The Bedfordshire \(Structural Changes\) Order 2008 \(S.I. 2008/907\)](#), **art. 23(2)**
- C44** S. 89 excluded (28.3.2008) by [The Bedfordshire \(Structural Changes\) Order 2008 \(S.I. 2008/907\)](#), **art. 24(2)**
- C45** S. 89 excluded (25.3.2010) by [The Norwich and Norfolk \(Structural Changes\) Order 2010 \(S.I. 2010/997\)](#), arts. 1, **11(2)**  
S. 89 excluded (25.3.2010) by [The Exeter and Devon \(Structural Changes\) Order 2010 \(S.I. 2010/998\)](#), arts. 1, **11(2)**
- C46** S. 89 excluded (26.5.2018) by [The Bournemouth, Dorset and Poole \(Structural Changes\) Order 2018 \(S.I. 2018/648\)](#), arts. 1, **5(3)**
- C47** S. 89 excluded (26.5.2018) by [The Bournemouth, Dorset and Poole \(Structural Changes\) Order 2018 \(S.I. 2018/648\)](#), arts. 1, **6(3)**
- C48** S. 89 excluded (26.5.2018) by [The Bournemouth, Dorset and Poole \(Structural Changes\) Order 2018 \(S.I. 2018/648\)](#), arts. 1, **4(3)**
- C49** S. 89 excluded (26.5.2018) by [The Bournemouth, Dorset and Poole \(Structural Changes\) Order 2018 \(S.I. 2018/648\)](#), arts. 1, **9(3)**
- C50** S. 89 excluded (26.5.2018) by [The Bournemouth, Dorset and Poole \(Structural Changes\) Order 2018 \(S.I. 2018/648\)](#), arts. 1, **8(3)**
- C51** S. 89 excluded (23.5.2019) by [The Buckinghamshire \(Structural Changes\) Order 2019 \(S.I. 2019/957\)](#), arts. 1, **4(3)**
- C52** S. 89 excluded (14.2.2020) by [The Northamptonshire \(Structural Changes\) Order 2020 \(S.I. 2020/156\)](#), arts. 1, **19(2)**
- C53** S. 89 excluded (14.2.2020) by [The Northamptonshire \(Structural Changes\) Order 2020 \(S.I. 2020/156\)](#), arts. 1, **5(3)**
- C54** S. 89(1) excluded (29.8.2008) by [The Local Government \(Structural Changes\) \(Transitional Arrangements\) Regulations 2008 \(S.I. 2008/2113\)](#), **reg. 13**
- C55** S. 89(3) modified (5.11.2008) by [The Local Elections \(Ordinary Day of Elections in 2009\) Order 2008 \(S.I. 2008/2857\)](#), **art. 5**
- C56** S. 89(3) applied (with modifications) (13.3.2004) by [The Local Elections \(Ordinary Day of Election 2004\) Order 2004 \(S.I. 2004/222\)](#), **art. 3(a)**
- C57** S. 89(3) modified (E.) (7.9.2013) by [The Local Elections \(Ordinary Day of Elections in 2014\) Order 2013 \(S.I. 2013/2277\)](#), arts. 1(1), **4(a)**

## 90 Term of office of persons filling casual vacancies.

A person elected or appointed under the foregoing provisions of this Act in England or Wales [<sup>F49</sup> or under Part <sup>F50</sup> . . . IV of the Local Government Act 1985] to fill any casual vacancy <sup>F51</sup> . . . shall hold office until the date upon which the person in whose place he is elected [<sup>F49</sup> or appointed] would regularly have retired, and he shall then retire.

### Textual Amendments

- F49** Words inserted by [Local Government Act 1985 \(c. 51, SIF 81:1\)](#), s. 84, **Sch. 14 Pt. I para. 11**
- F50** Words repealed by [Education Reform Act 1988 \(c. 40, SIF 41:1\)](#), ss. 231(7), 235(6), **Sch. 13 Pt. I**
- F51** Words in s. 90 repealed (22.4.2004) by [Statute Law \(Repeals\) Act 2004 \(c. 14\)](#), **s. 1(I)**, {Sch. 1 Pt. 10 Group 1}

### Modifications etc. (not altering text)

- C58** S. 90 amended by [S.I. 1985/1884](#), arts. 10, 11(3), **Sch. 3 para. 2**
- C59** S. 90 modified by [S.I. 1987/2110](#), art. 2(2), **Sch. 1 para. 4**

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## 91 Temporary appointment of members of parish and community councils.

- (1) Where there are so many vacancies in the office of parish or community councillor that the parish or community council are unable to act, the district council [<sup>F52</sup>or Welsh principal council] may by order appoint persons to fill all or any of the vacancies until other councillors are elected and take up office.
- (2) In the case of a common parish council under which are grouped, by virtue of section 11(5) above, parishes situated in different districts, the reference in subsection (1) above to the district council shall be construed as a reference to the council of the district in which there is the greater number of local government electors for the parishes in the group.
- (3) Two copies of every order made under this section shall be sent to the Secretary of State.

### Textual Amendments

**F52** Words in s. 91(1) inserted (1.4.1996) by 1994 c. 19, s. 66(5), **Sch. 15 para. 24** (with ss. 54(5)(7), 55(5), **Sch. 17 paras. 22(1), 23(2)**); S.I. 1996/396, art. 4, **Sch. 2**

### Modifications etc. (not altering text)

**C60** S. 91: functions of local authority not to be responsibility of an executive of the authority (E.) (16.11.2000) by virtue of S.I. 2000/2853, reg. 2(1), **Sch. 1**

**Status:**

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