



# Local Government and Housing Act 1989

## 1989 CHAPTER 42

### PART I **E+W+S**

#### LOCAL AUTHORITY MEMBERS, OFFICERS, STAFF AND COMMITTEES ETC.

##### *Political restriction of officers and staff*

### 1 **Disqualification and political restriction of certain officers and staff.** **E+W+S**

- (1) A person shall be disqualified from becoming (whether by election or otherwise) or remaining a member of a local authority if he holds a politically restricted post under that local authority or any other local authority in Great Britain.
- (2) In the <sup>M1</sup>House of Commons Disqualification Act 1975, in Part III of Schedule 1 (other disqualifying offices) there shall be inserted at the appropriate place—

“Person holding a politically restricted post, within the meaning of Part I of the Local Government and Housing Act 1989, under a local authority, within the meaning of that Part.”
- (3) In section 80 of the <sup>M2</sup>Local Government Act 1972 (disqualification for election and holding office as member of local authority)—
  - (a) in subsection (1)(a) (paid office holders and employees), the words “joint board, joint authority or” shall be omitted; and
  - (b) in subsection (6) (extension of meaning of “local authority”), after the word “includes” there shall be inserted “ a joint board and ”.
- (4) In section 31 of the <sup>M3</sup>Local Government (Scotland) Act 1973 (which makes corresponding provision for Scotland)—
  - (a) in subsection (1)(a)(ii), the words “or joint board” shall be omitted; and
  - (b) after subsection (1) there shall be inserted the following subsection—

“(1A) A person is disqualified for being a member of a joint board if he or a partner of his holds any paid office or employment (other than the

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office of chairman or vice-chairman of the board) or other place of profit in the gift or disposal of the board.”

- (5) The terms of appointment or conditions of employment of every person holding a politically restricted post under a local authority (including persons appointed to such posts before the coming into force of this section) shall be deemed to incorporate such requirements for restricting his political activities as may be prescribed for the purposes of this subsection by regulations made by the Secretary of State.
- (6) Regulations under subsection (5) above 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, without prejudice to section 190(1) below, may contain such exceptions for persons appointed in pursuance of section 9 below as he thinks fit.
- (7) So far as it has effect in relation to disqualification for election, this section has effect with respect to any election occurring not less than two months after the coming into force of this section and, so far as it relates to becoming in any other way a member of a local authority, this section has effect with respect to any action which, apart from this section, would result in a person becoming a member of the authority not less than two months after the coming into force of this section.
- (8) If, immediately before the expiry of the period of two months referred to in subsection (7) above, a person who is a member of a local authority holds a politically restricted post under that or any other local authority, nothing in this section shall apply to him until the expiry of the period for which he was elected or for which he otherwise became a member of the authority.
- <sup>F1</sup>(9) In this section a reference to a person holding a politically restricted post under a local authority includes a reference to every member of the staff of an elected local policing body<sup>F2</sup>... [<sup>F3</sup>, [<sup>F4</sup>and every member of staff of a fire and rescue authority created by an order under section 4A of the Fire and Rescue Services Act 2004][<sup>F4</sup>every member of staff of a fire and rescue authority created by an order under section 4A of the Fire and Rescue Services Act 2004 and every member of staff of the London Fire Commissioner]]].
- <sup>F5</sup>(10) The reference in subsection (9) to every member of the staff of an elected local policing body does not include a deputy police and crime commissioner.
- (11) For the purposes of subsection (1) only, the reference in subsection (9) to every member of the staff of an elected local policing body does not include the Deputy Mayor for Policing and Crime appointed under section 19(1)(a) of the Police Reform and Social Responsibility Act 2011.]

#### Textual Amendments

- F1** S. 1(9) inserted (16.1.2012) by [Police Reform and Social Responsibility Act 2011 \(c. 13\)](#), s. 157(1), [Sch. 16 para. 200](#); S.I. 2011/3019, art. 3, Sch. 1
- F2** Words in s. 1(9) omitted (31.1.2017 for specified purposes, 1.4.2018 in so far as not already in force) by virtue of [Policing and Crime Act 2017 \(c. 3\)](#), ss. [123\(2\)](#), [183\(1\)\(5\)\(e\)](#); S.I. 2018/227, [reg. 4\(d\)](#)
- F3** Words in s. 1(9) inserted (31.1.2017 for specified purposes) by [Policing and Crime Act 2017 \(c. 3\)](#), s. [183\(1\)\(5\)\(e\)](#), [Sch. 1 para. 61](#)
- F4** Words in s. 1(9) substituted (31.1.2017 for specified purposes) by [Policing and Crime Act 2017 \(c. 3\)](#), s. [183\(1\)\(5\)\(e\)](#), [Sch. 2 para. 86](#)

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**F5** S. 1(10)(11) inserted (31.1.2017 for specified purposes, 1.4.2018 in so far as not already in force) by Policing and Crime Act 2017 (c. 3), **ss. 123(3)**, 183(1)(5)(e); S.I. 2018/227, **reg. 4(d)**

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

- C1** S. 1 applied (S.) (temp.) (6.4.1995 to 1.4.1996) by S.I. 1995/789, **art. 2**, **Sch.** entry 11  
S. 1 extended (E.W.) (19.9.1995) by 1995 c. 25, **ss. 63(5)**, 125(2), **Sch. 7 para. 7(4)** (with **ss. 7(6)**, 115, 117, **Sch. 8 para. 7**)  
S. 1 extended (8.5.2000) by 1999 c. 29, **ss. 68**, 70 (with **Sch. 12 para. 9(1)**); S.I. 2000/801, **art. 2(2)(b)**, **Sch. Pt. 2**
- C2** **Ss. 1-3** modified (E.) (22.7.2004) by The Chilterns Area of Outstanding Natural Beauty (Establishment of Conservation Board) Order 2004 (S.I. 2004/1778), **arts. 1**, **12(4)**
- C3** **Ss. 1-3** modified (E.) (22.7.2004) by The Cotswolds Area of Outstanding Natural Beauty (Establishment of Conservation Board) Order 2004 (S.I. 2004/1777), **arts. 1**, **12(4)**
- C4** S. 1 excluded (16.1.2012 for specified purposes, 22.11.2012 in so far as not already in force) by Police Reform and Social Responsibility Act 2011 (c. 13), **s. 157(1)**, **Sch. 15 para. 20(2)**; S.I. 2011/3019, **art. 3**, **Sch. 1**; S.I. 2012/2892, **art. 2(h)**
- C5** S. 1 excluded (22.11.2012) by The Local Policing Bodies (Consequential Amendments and Transitional Provision) Order 2012 (S.I. 2012/2733), **arts. 1**, **4**
- C6** S. 1 applied (with modifications) (E.) (3.3.2017) by The Tees Valley Combined Authority (Functions) Order 2017 (S.I. 2017/250), **arts. 1(2)**, **6(a)**

**Marginal Citations**

- M1** 1975 c. 24.
- M2** 1972 c. 70.
- M3** 1973 c. 65.

**2 Politically restricted posts. E+W+S**

- (1) The following persons are to be regarded for the purposes of this Part as holding politically restricted posts under a local authority—
  - (a) the person designated under section 4 below as the head of the authority’s paid service;
  - (b) the statutory chief officers;
  - (c) a non-statutory chief officer;
  - (d) a deputy chief officer;
  - (e) the monitoring officer designated under section 5 below;
  - (f) any person holding a post to which he was appointed in pursuance of section 9 below; [<sup>F6</sup>and]
  - (g) any person not falling within paragraphs (a) to (f) above whose post is for the time being specified by the authority in a list maintained in accordance with subsection (2) below and any directions under section 3 [<sup>F7</sup>or 3A] below or with section 100G(2) of the <sup>M4</sup>Local Government Act 1972 or section 50G(2) of the <sup>M5</sup>Local Government (Scotland) Act 1973 (list of officers to whom powers are delegated) [<sup>F8</sup>; and
  - (h) the head of democratic services designated under section 8 of the Local Government (Wales) Measure 2011].
- (2) It shall be the duty of every local authority to prepare and maintain a list of such of the following posts under the authority, namely—
  - <sup>F9</sup>(a) .....
  - <sup>F9</sup>(b) .....

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- (c) posts <sup>F10</sup>[<sup>F11</sup>... the] duties of which appear to the authority to fall within subsection (3) below,
- as are not posts for the time being exempted under section 3 [<sup>F12</sup>or 3A] below, posts for the time being listed under section 100G(2) of the <sup>M6</sup>Local Government Act 1972 or section 50G(2) of the <sup>M7</sup>Local Government (Scotland) Act 1973 or posts of a description specified in regulations made by the Secretary of State for the purposes of this subsection.
- (3) The duties of a post under a local authority fall within this subsection if they consist in or involve one or both of the following, that is to say—
- (a) giving advice on a regular basis to the authority themselves, to any committee or sub-committee of the authority or to any joint committee on which the authority are represented<sup>F13</sup> or, where the authority are operating executive arrangements, to the executive of the authority, to any committee of that executive, or to any member of that executive who is also a member of the authority];
  - (b) speaking on behalf of the authority on a regular basis to journalists or broadcasters.
- (4) It shall be the duty of every local authority to deposit the first list prepared under subsection (2) above with their proper officer before the expiry of the period of two months beginning with the coming into force of this section; and it shall also be their duty, on subsequently making any modifications of that list, to deposit a revised list with that officer.
- (5) It shall be the duty of every local authority [<sup>F14</sup> in Scotland and Wales ] in performing their duties under this section to have regard to such general advice as may be given by virtue of subsection (1)(b) of section 3 below by a person appointed under that subsection.
- <sup>F15</sup>(5A) It shall be the duty of every local authority in England in performing their duties under this section to have regard to such general advice as may be given by virtue of section 3B below by the Secretary of State.]
- (6) In this section “the statutory chief officers” means—
- <sup>F16</sup>(za) the director of children’s services appointed under section 18 of the Children Act 2004 and the director of adult social services appointed under section 6(A1) of the Local Authority Social Services Act 1970 (in the case of a local authority in England);]
  - <sup>F17</sup>(zb) the director of public health appointed under section 73A(1) of the National Health Service Act 2006;]
  - (a) the chief education officer [<sup>F18</sup>or director of education] appointed under [<sup>F19</sup>section 532 of the Education Act 1996][<sup>F18</sup>or section 78 of the <sup>M8</sup>Education (Scotland) Act 1980][<sup>F20</sup>(in the case of a local authority in Wales) ] ;
  - (b) [<sup>F21</sup>the chief officer of a fire brigade maintained under the <sup>M9</sup>Fire Services Act 1947 and appointed under regulations made under section 18(1)(a) of that Act;]
  - (c) the director of social services [<sup>F22</sup>(in the case of a local authority in Wales)] or [<sup>F23</sup>chief social work officer] appointed under section 6 of the <sup>M10</sup>Local Authority Social Services Act 1970 or section 3 of the <sup>M11</sup>Social Work (Scotland) Act 1968; and
  - (d) the officer having responsibility, for the purposes of section 151 of the Local Government Act 1972, section 73 of the <sup>M12</sup>Local Government Act 1985,

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section 112 of the <sup>M13</sup>Local Government Finance Act 1988 [<sup>F24</sup>, section 127(2) of the Greater London Authority Act 1999] or section 6 below or for the purposes of section 95 of the <sup>M14</sup>Local Government (Scotland) Act 1973, for the administration of the authority's financial affairs.

- (7) In this section “non-statutory chief officer” means, subject to the following provisions of this section—
- (a) a person for whom the head of the authority's paid service is directly responsible;
  - (b) a person who, as respects all or most of the duties of his post, is required to report directly or is directly accountable to the head of the authority's paid service; and
  - (c) any person who, as respects all or most of the duties of his post, is required to report directly or is directly accountable to the local authority themselves or any committee or sub-committee of the authority.
- (8) In this section “deputy chief officer” means, subject to the following provisions of this section, a person who, as respects all or most of the duties of his post, is required to report directly or is directly accountable to one or more of the statutory or non-statutory chief officers.
- (9) A person whose duties are solely secretarial or clerical or are otherwise in the nature of support services shall not be regarded as a non-statutory chief officer or a deputy chief officer for the purposes of this Part.
- (10) Nothing in this section shall have the effect of requiring any person to be regarded as holding a politically restricted post by reason of his holding—
- (a) the post of head teacher or principal of a school, college or other educational institution or establishment which, in England and Wales, is maintained or assisted by a [<sup>F25</sup>local authority] or, in Scotland, is under the management of or is assisted by an education authority; or
  - (b) any other post as a teacher or lecturer in any such school, college, institution or establishment,
- or of requiring any such post to be included in any list prepared and maintained under this section.
- (11) 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.

#### Textual Amendments

- F6** Word in s. 2(1)(f) repealed (W.) (30.4.2012) by [Local Government \(Wales\) Measure 2011 \(nawm 4\)](#), ss. 21(2), 178(3), [Sch. 4 Pt. A](#); S.I. 2012/1187, art. 2(1)(b)(2)(m)
- F7** Words in s. 2(1)(g) inserted (1.4.2008) by [Local Government and Public Involvement in Health Act 2007 \(c. 28\)](#), [ss. 203\(1\)\(a\)](#), 245(5); S.I. 2008/172, art. 4(m)
- F8** S. 2(1)(h) and word inserted (W.) (30.4.2012) by [Local Government \(Wales\) Measure 2011 \(nawm 4\)](#), [ss. 21\(3\)](#), 178(3); S.I. 2012/1187, art. 2(1)(b)
- F9** S. 2(2)(a)(b) and word repealed (S.) (28.2.2007) by [Local Governance \(Scotland\) Act 2004 \(asp 9\)](#), ss. 9(a), 17(2); S.S.I. 2007/25, art. 2(1); s. 2(2)(a)(b) repealed (E.W.) (12.1.2010) by [Local Democracy, Economic Development and Construction Act 2009 \(c. 20\)](#), ss. 30(2)(a), 148(1)(d), [Sch. 7 Pt. 1](#)
- F10** Words in s. 2(2)(c) repealed (E.W.) (12.1.2010) by [Local Democracy, Economic Development and Construction Act 2009 \(c. 20\)](#), ss. 30(2)(b), 148(1)(d), [Sch. 7 Pt. 1](#)

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- F11** Words in s. 2(2)(c) repealed (S.) (28.2.2007) by Local Governance (Scotland) Act 2004 (asp 9), **ss. 9(b)**, 17(2); S.S.I. 2007/25, art. 2(1)
- F12** Words in s. 2(2) inserted (1.4.2008) by Local Government and Public Involvement in Health Act 2007 (c. 28), **ss. 203(1)(a)**, 245(5); S.I. 2008/172, art. 4(m)
- F13** Words in s. 2(3)(a) inserted (E.) (11.7.2001) and (W.) (1.4.2002) by S.I. 2001/2237, arts. 1(2), 22; S.I. 2002/808, arts. 1(2), **21**
- F14** Words in s. 2(5) inserted (1.4.2008) by Local Government and Public Involvement in Health Act 2007 (c. 28), **ss. 203(1)(b)**, 245(5); S.I. 2008/172, art. 4(m)
- F15** S. 2(5A) inserted (1.4.2008) by Local Government and Public Involvement in Health Act 2007 (c. 28), **ss. 203(1)(c)**, 245(5); S.I. 2008/172, art. 4(m)
- F16** S. 2(6)(za) inserted (E.W.) (1.1.2008 with effect in accordance with 2004 c. 31, s. 18(9)(10)) by Children Act 2004 (c. 31), s. 67(2), **Sch. 2 para. 3(a)**; S.I. 2007/1792, art. 2
- F17** S. 2(6)(zb) inserted (1.4.2013) by Health and Social Care Act 2012 (c. 7), s. 306(4), **Sch. 5 para. 57**; S.I. 2013/160, art. 2(2) (with arts. 7-9)
- F18** Words in s. 2(6)(a) repealed (S.) (1.4.1996) by 1994 c. 39, s. 180(1)(2), Sch. 13 para. 161(1)(2)(a), **Sch. 14** (with s. 128(8)); S.I. 1996/323, art. 4(1)(c)(d), **Sch. 2**
- F19** Words in s. 2(6)(a) substituted (1.11.1996) by 1996 c. 56, ss. 582(1), 583(2), **Sch. 37 para. 95** (with s. 1(4), Sch. 39 paras. 30, 39)
- F20** Words in s. 2(6)(a) inserted (E.W.) (1.1.2008 with effect in accordance with 2004 c. 31, s. 18(9)(10)) by Children Act 2004 (c. 31), s. 67(2), **Sch. 2 para. 3(b)**; S.I. 2007/1792, art. 2
- F21** S. 2(6)(b) repealed (E.W.) (1.10.2004 except in relation to W., 10.11.2004 for W.) by Fire and Rescue Services Act 2004 (c. 21), s. 61, **Sch. 2**; S.I. 2004/2304, art. 2; S.I. 2004/2917, art. 2
- F22** Words in s. 2(6)(c) inserted (E.W.) (1.1.2008 with effect in accordance with 2004 c. 31, s. 18(9)(10)) by Children Act 2004 (c. 31), s. 67(2), **Sch. 2 para. 3(c)**; S.I. 2007/1792, art. 2
- F23** Words in s. 2(6)(c) substituted (S.) (1.4.1996) by 1994 c. 39, s. 180(1), **Sch. 13 para. 161(1)(2)(b)** (with s. 128(8)); S.I. 1996/323, **art. 4(1)(c)**
- F24** Words in s. 2(6)(d) inserted (8.5.2000 for specified purposes otherwise 3.7.2000) by 1999 c. 29, **s. 127(8)** (with Sch. 12 para. 9(1)); S.I. 1999/3434, **arts. 3, 4**
- F25** Words in s. 2(10)(a) substituted (5.5.2010) by The Local Education Authorities and Children's Services Authorities (Integration of Functions) Order 2010 (S.I. 2010/1158), art. 1, **Sch. 2 para. 38(2)**

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

- C2** Ss. 1-3 modified (E.) (22.7.2004) by The Chilterns Area of Outstanding Natural Beauty (Establishment of Conservation Board) Order 2004 (S.I. 2004/1778), arts. 1, **12(4)**
- C3** Ss. 1-3 modified (E.) (22.7.2004) by The Cotswolds Area of Outstanding Natural Beauty (Establishment of Conservation Board) Order 2004 (S.I. 2004/1777), arts. 1, **12(4)**
- C7** S. 2 extended (E.W.) (19.9.1995) by 1995 c. 25, ss. 63(5), 125(2), **Sch. 7 para. 7(4)** (with ss. 7(6), 115, 117, Sch. 8 para. 7)
- C8** S. 2 applied (with modifications) (E.) (3.3.2017) by The Tees Valley Combined Authority (Functions) Order 2017 (S.I. 2017/250), arts. 1(2), **6(b)**

#### Marginal Citations

- M4** 1972 c. 70.  
**M5** 1973 c. 65.  
**M6** 1972 c. 70.  
**M7** 1973 c. 65.  
**M8** 1980 c. 44.  
**M9** 1947 c. 41.  
**M10** 1970 c. 42.  
**M11** 1968 c. 49.  
**M12** 1985 c. 51.  
**M13** 1988 c. 41.

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M14 1973 c. 65.

### 3 Grant and supervision of exemptions from political restriction<sup>F26</sup>: Scotland and Wales ]. **E+W+S**

- (1) <sup>F27</sup>It shall be the duty of the Scottish Ministers to appoint in relation to Scotland, and the duty of the Welsh Ministers to appoint in relation to Wales, a person]—
  - (a) to carry out the functions in relation to political restriction which are conferred by subsections (2) to (7) below; and
  - (b) to give such general advice with respect to the determination of questions arising by virtue of section 2(3) above as that person considers appropriate after consulting such representatives of local government and such organisations appearing to him to represent employees in local government as he considers appropriate.
- (2) A person appointed under subsection (1) above—
  - (a) shall consider any application for exemption from political restriction which is made to him, in respect of any post under a local authority, by the holder for the time being of that post; and
  - (b) may, on the application of any person or otherwise, give directions to a local authority requiring it to include a post in the list maintained by the authority under section 2(2) above.
- (3) An application shall not be made by virtue of subsection (2)(a) above in respect of a post under a local authority except where—
  - (a) the authority have specified or are proposing to specify the post in the list maintained by the authority under subsection (2) of section 2 above; <sup>F28</sup> ...
  - <sup>F29</sup> <sup>F30</sup>(b) .....  
<sup>F31</sup> ...]
- (4) If, on an application made by virtue of subsection (2)(a) above in respect of any post under a local authority, the person to whom the application is made is satisfied that the duties of the post do not fall within section 2(3) above, that person shall direct—
  - (a) that, for so long as the direction has effect in accordance with its terms, the post is not to be regarded as a politically restricted post; and
  - (b) that, accordingly, the post is not to be specified in the list maintained by that authority under section 2(2) above or, as the case may be, is to be removed from that list.
- (5) A person appointed under subsection (1) above shall not give a direction under subsection (2)(b) above in respect of any post under a local authority except where he is satisfied that the post—
  - (a) is a post the duties of which fall within section 2(3) above; and
  - (b) is neither included in any list maintained by the authority in accordance with section 2(2) above, section 100G(2) of the <sup>M15</sup>Local Government Act 1972 or section 50G(2) of the <sup>M16</sup>Local Government (Scotland) Act 1973 nor of a description specified in any regulations under section 2(2) above.
- (6) It shall be the duty of a local authority—
  - (a) to give a person appointed under subsection (1) above all such information as that person may reasonably require for the purpose of carrying out his functions under this section;

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- (b) to comply with any direction under this section with respect to the list maintained by the authority; and
  - (c) on being given a direction by virtue of subsection (2)(b) above, to notify the terms of the direction to the holder for the time being of the post to which the direction relates.
- (7) It shall be the duty of a person appointed under subsection (1) above, in carrying out his functions under this section, to give priority, according to the time available before the election, to any application made by virtue of subsection (2)(a) above by a person who certifies that it is made for the purpose of enabling him to be a candidate in a forthcoming election.
- (8) The Secretary of State may—
- <sup>F32</sup>(a) . . . . .
  - (b) provide for the appointment of such numbers of staff to assist any person appointed under [<sup>F33</sup>subsection (1)], and to act on that person’s behalf, as the Secretary of State may with the consent of the Treasury determine;
  - (c) pay to or in respect of a person appointed under that subsection and members of such a person’s staff such remuneration and such other sums by way of, or towards, the payment of pensions, allowances and gratuities as the Secretary of State may so determine; and
  - (d) provide for a person appointed under that subsection and such a person’s staff to hold office on such other terms as the Secretary of State may so determine.

#### Textual Amendments

- F26** Words in s. 3 heading inserted (1.4.2008) by [Local Government and Public Involvement in Health Act 2007 \(c. 28\)](#), **ss. 202(1)(a)**, 245(5); S.I. 2008/172, art. 9(1)
- F27** Words in s. 3(1) substituted (1.4.2008) by [Local Government and Public Involvement in Health Act 2007 \(c. 28\)](#), **ss. 202(1)(b)**, 245(5); S.I. 2008/172, art. 9(1)
- F28** Word in s. 3(3)(a) repealed (E.W.) (12.1.2010) by [Local Democracy, Economic Development and Construction Act 2009 \(c. 20\)](#), ss. 30(3)(a), 148(1)(d), **Sch. 7 Pt. 1**
- F29** S. 3(3)(b) repealed (E.W.) (12.1.2010) by [Local Democracy, Economic Development and Construction Act 2009 \(c. 20\)](#), ss. 30(3)(b), 148(1)(d), **Sch. 7 Pt. 1**
- F30** Words in s. 3(3) omitted (S.) (29.5.2009) by virtue of [The Local Government and Housing Act 1989 Amendment \(Scotland\) Order 2009 \(S.S.I. 2009/205\)](#), arts. 1, **2(2)**
- F31** Words in s. 3(3) repealed (E.W.) (12.1.2010) by [Local Democracy, Economic Development and Construction Act 2009 \(c. 20\)](#), ss. 30(3)(c), 148(1)(d), **Sch. 7 Pt. 1**
- F32** S. 3(8)(a) repealed (1.4.2008) by [Local Government and Public Involvement in Health Act 2007 \(c. 28\)](#), ss. 202(1)(c), 245(5), **Sch. 18 Pt. 15**; S.I. 2008/172, arts. 4(n)(ii), 9(1)
- F33** Words in s. 3(8)(b) substituted (1.4.2008) by [Local Government and Public Involvement in Health Act 2007 \(c. 28\)](#), **ss. 202(1)(d)**, 245(5); S.I. 2008/172, art. 9(1)

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

- C2** Ss. 1-3 modified (E.) (22.7.2004) by [The Chilterns Area of Outstanding Natural Beauty \(Establishment of Conservation Board\) Order 2004 \(S.I. 2004/1778\)](#), arts. 1, **12(4)**
- C3** Ss. 1-3 modified (E.) (22.7.2004) by [The Cotswolds Area of Outstanding Natural Beauty \(Establishment of Conservation Board\) Order 2004 \(S.I. 2004/1777\)](#), arts. 1, **12(4)**
- C9** S. 3 applied (S.) (*temp.* 6.4.1995 to 31.3.1996) by S.I. 1995/789, art. 2, **Sch.** entry 11  
S. 3 extended (E.W.) (19.9.1995) by 1995 c. 25, ss. 63(5), 125(2), **Sch. 7 para. 7(4)** (with ss. 7(6), 115, 117, Sch. 8 para. 7)



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S. 3 extended (8.5.2000) by 1999 c. 29, ss. 68, 70 (with Sch. 12 para. 9(1)); S.I. 2000/801, art. 2(2)(b), Sch. Pt. 2

**Marginal Citations**

**M15** 1972 c. 70.

**M16** 1973 c. 65.

[<sup>F34</sup>3A **Grant and supervision of exemptions from political restriction: England** **E+W**

**+S**

- (1) The [<sup>F35</sup>head of paid service] of a local authority in England <sup>F36</sup>...—
  - (a) must consider any application for exemption from political restriction which is made to the [<sup>F37</sup>head of paid service], in respect of any post under the <sup>F38</sup>... authority, by the holder for the time being of that post; and
  - (b) may, on the application of any person or otherwise, give directions to the <sup>F39</sup>... authority requiring it to include a post in the list maintained by the authority under section 2(2).
- (2) An application may not be made under subsection (1)(a) unless—
  - (a) the <sup>F40</sup>... authority have specified or are proposing to specify the post in the list maintained by them under section 2(2);<sup>F41</sup>...
  - <sup>F42</sup>(b) .....
  - <sup>F43</sup>...
- (3) If, on an application under subsection (1)(a) in respect of any post, the [<sup>F44</sup>head of paid service] is satisfied that the duties of the post do not fall within section 2(3), the [<sup>F45</sup>head of paid service] must direct—
  - (a) that, for so long as the direction has effect in accordance with its terms, the post is not to be regarded as a politically restricted post; and
  - (b) that accordingly the post is not to be specified in the list maintained by the <sup>F46</sup>... authority under section 2(2) or (as the case may be) is to be removed from that list.
- (4) A [<sup>F47</sup>local authority's head of paid service] may not give a direction under subsection (1)(b) in respect of any post unless the [<sup>F48</sup>head of paid service] is satisfied that—
  - (a) the duties of the post fall within section 2(3); and
  - (b) the post is neither—
    - (i) in any list maintained by the <sup>F49</sup>... authority in accordance with section 2(2) above or section 100G(2) of the Local Government Act 1972; nor
    - (ii) of a description specified in any regulations under section 2(2) above.
- <sup>F50</sup>(5) .....
- (6) Every local authority in England <sup>F51</sup>... must—
  - (a) give its [<sup>F52</sup>head of paid service] all such information as the [<sup>F53</sup>head of paid service] may reasonably require for the purpose of carrying out <sup>F54</sup>... functions under this section;
  - (b) comply with any direction under this section with respect to the list maintained by the authority; and

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- (c) on being given a direction under subsection (1)(b), notify the terms of the direction to the person who holds the post to which the direction relates.
- (7) In carrying out <sup>F55</sup>... functions under this section a [<sup>F56</sup>local authority's head of paid service] must give priority, according to the time available before the election, to any application under subsection (1)(a) from a person who certifies that the application is made for the purpose of enabling him to be a candidate in a forthcoming election.
- <sup>F57</sup> [ In carrying out functions under this section a local authority's head of paid service (7A) must consult the monitoring officer of that authority (unless they are the same person).
- (7B) The Secretary of State may by regulations make provision about the application of this section to a local authority that is not required to designate one of its officers as the head of its paid service.
- (7C) Regulations under subsection (7B) may apply any provisions of this section (with or without modifications) to an authority to which they apply.]
- <sup>F58</sup>(8) .....
- <sup>F58</sup>(9) .....
- <sup>F58</sup>(10) ..... ]

<b>Textual Amendments</b>	
<b>F34</b>	Ss. 3A, 3B inserted (E.W.) (31.1.2008 for specified purposes, 1.4.2008 so far as not already in force) by <a href="#">Local Government and Public Involvement in Health Act 2007 (c. 28)</a> , <b>ss. 202(2)</b> , 245(5); S.I. 2008/172, art. 9(2); S.I. 2008/172, art. 9(3)
<b>F35</b>	Words in <a href="#">s. 3A(1)</a> substituted (1.7.2012 for specified purposes, 22.11.2012 in so far as not already in force) by <a href="#">Localism Act 2011 (c. 20)</a> , <a href="#">s. 240(2)</a> , <b>Sch. 4 para. 4(2)(a)</b> ; S.I. 2012/1463, art. 5(a) (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) (with arts. 3-6)
<b>F36</b>	Words in <a href="#">s. 3A(1)</a> repealed (1.7.2012 for specified purposes, 22.11.2012 in so far as not already in force) by <a href="#">Localism Act 2011 (c. 20)</a> , <a href="#">s. 240(2)</a> , <b>Sch. 4 para. 4(2)(b)</b> , <b>Sch. 25 Pt. 5</b> ; S.I. 2012/1463, art. 5(a)(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)
<b>F37</b>	Words in <a href="#">s. 3A(1)(a)</a> substituted (1.7.2012 for specified purposes, 22.11.2012 in so far as not already in force) by <a href="#">Localism Act 2011 (c. 20)</a> , <a href="#">s. 240(2)</a> , <b>Sch. 4 para. 4(2)(c)</b> ; S.I. 2012/1463, art. 5(a) (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) (with arts. 3-6)
<b>F38</b>	Word in <a href="#">s. 3A(1)(a)</a> repealed (1.7.2012 for specified purposes, 22.11.2012 in so far as not already in force) by <a href="#">Localism Act 2011 (c. 20)</a> , <a href="#">s. 240(2)</a> , <b>Sch. 4 para. 4(2)(d)</b> , <b>Sch. 25 Pt. 5</b> ; S.I. 2012/1463, art. 5(a)(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)
<b>F39</b>	Word in <a href="#">s. 3A(1)(b)</a> repealed (1.7.2012 for specified purposes, 22.11.2012 in so far as not already in force) by <a href="#">Localism Act 2011 (c. 20)</a> , <a href="#">s. 240(2)</a> , <b>Sch. 4 para. 4(2)(d)</b> , <b>Sch. 25 Pt. 5</b> ; S.I. 2012/1463, art. 5(a)(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)
<b>F40</b>	Word in <a href="#">s. 3A(2)(a)</a> repealed (1.7.2012 for specified purposes, 22.11.2012 in so far as not already in force) by <a href="#">Localism Act 2011 (c. 20)</a> , <a href="#">s. 240(2)</a> , <b>Sch. 4 para. 4(3)</b> , <b>Sch. 25 Pt. 5</b> ; S.I. 2012/1463, art. 5(a)(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)
<b>F41</b>	Word in <a href="#">s. 3A(2)(a)</a> repealed (12.1.2010) by <a href="#">Local Democracy, Economic Development and Construction Act 2009 (c. 20)</a> , <a href="#">ss. 30(4)(a)</a> , 148(1)(d), <b>Sch. 7 Pt. 1</b>

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- F42** S. 3A(2)(b) repealed (12.1.2010) by Local Democracy, Economic Development and Construction Act 2009 (c. 20), ss. 30(4)(b), 148(1)(d), **Sch. 7 Pt. 1**
- F43** Words in s. 3A(2) repealed (12.1.2010) by Local Democracy, Economic Development and Construction Act 2009 (c. 20), ss. 30(4)(c), 148(1)(d), **Sch. 7 Pt. 1**
- F44** Words in s. 3A(3) substituted (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. 4 para. 4(4)(a)**; S.I. 2012/1463, art. 5(a) (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) (with arts. 3-6)
- F45** Words in s. 3A(3) substituted (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. 4 para. 4(4)(b)**; S.I. 2012/1463, art. 5(a) (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) (with arts. 3-6)
- F46** Word in s. 3A(3)(b) 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. 4 para. 4(4)(c)**, **Sch. 25 Pt. 5**; S.I. 2012/1463, art. 5(a)(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)
- F47** Words in s. 3A(4) substituted (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. 4 para. 4(5)(a)**; S.I. 2012/1463, art. 5(a) (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) (with arts. 3-6)
- F48** Words in s. 3A(4) substituted (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. 4 para. 4(5)(b)**; S.I. 2012/1463, art. 5(a) (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) (with arts. 3-6)
- F49** Word in s. 3A(4)(b)(i) 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. 4 para. 4(5)(c)**, **Sch. 25 Pt. 5**; S.I. 2012/1463, art. 5(a)(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)
- F50** S. 3A(5) 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. 4 para. 4(6)**, **Sch. 25 Pt. 5**; S.I. 2012/1463, art. 5(a)(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)
- F51** Words in s. 3A(6) 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. 4 para. 4(7)(a)**, **Sch. 25 Pt. 5**; S.I. 2012/1463, art. 5(a)(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)
- F52** Words in s. 3A(6)(a) substituted (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. 4 para. 4(7)(b)(i)**; S.I. 2012/1463, art. 5(a) (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) (with arts. 3-6)
- F53** Words in s. 3A(6)(a) substituted (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. 4 para. 4(7)(b)(ii)**; S.I. 2012/1463, art. 5(a) (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) (with arts. 3-6)
- F54** Word in s. 3A(6)(a) 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. 4 para. 4(7)(b)(iii)**, **Sch. 25 Pt. 5**; S.I. 2012/1463, art. 5(a)(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)
- F55** Word in s. 3A(7) 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. 4 para. 4(8)(a)**, **Sch. 25 Pt. 5**; S.I. 2012/1463, art. 5(a)(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)

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- F56** Words in s. 3A(7) substituted (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. 4 para. 4(8)(b)**; S.I. 2012/1463, art. 5(a) (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) (with arts. 3-6)
- F57** S. 3A(7A)-(7C) inserted (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. 4 para. 4(9)**; S.I. 2012/1463, art. 5(a) (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) (with arts. 3-6)
- F58** S. 3A(8)-(10) 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. 4 para. 4(10), Sch. 25 Pt. 5**; S.I. 2012/1463, art. 5(a)(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)

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

- C10** S. 3A applied (with modifications) (26.7.2012) by [The Local Authorities \(Exemption from Political Restrictions\) \(Designation\) Regulations 2012](#) (S.I. 2012/1644), regs. 1(1), 2
- C11** S. 3A applied (with modifications) (3.3.2017) by [The Tees Valley Combined Authority \(Functions\) Order 2017](#) (S.I. 2017/250), arts. 1(2), **6(b)**

**[<sup>F34</sup>3B General advice as to politically restricted posts: England E+W+S**

- (1) The Secretary of State may in relation to England give such general advice with respect to the determination of questions arising by virtue of section 2(3) as he considers appropriate.
- (2) Before giving general advice under this section the Secretary of State must consult such representatives of local government and such organisations appearing to him to represent employees in local government as he considers appropriate.]

**Textual Amendments**

- F34** Ss. 3A, 3B inserted (E.W.) (31.1.2008 for specified purposes, 1.4.2008 so far as not already in force) by [Local Government and Public Involvement in Health Act 2007](#) (c. 28), **ss. 202(2), 245(5)**; S.I. 2008/172, art. 9(2); S.I. 2008/172, art. 9(3)

**Status:**

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