



Government of Wales Act 2006

2006 CHAPTER 32

PART 1

NATIONAL ASSEMBLY FOR WALES

Disqualification

16 Disqualification from being Assembly member

- (1) A person is disqualified from being an Assembly member if that person—
 - [^{F1}(za) is a member of the House of Commons (but see sections 17A and 17B),]
 - (a) is disqualified from being a member of the House of Commons under paragraphs (a) to (e) of section 1(1) of the House of Commons Disqualification Act 1975 (c. 24) (judges, civil servants, members of the armed forces, members of police forces and members of foreign legislatures),
 - (b) holds any of the offices for the time being designated by Order in Council as offices disqualifying persons from being Assembly members,
 - (c) holds the office of Auditor General,
 - (d) holds the office of Public Services Ombudsman for Wales, or
 - (e) is employed as a member of the staff of the Assembly.
- (2) Subject to section 17(1) and (2), a person is also disqualified from being an Assembly member if that person is disqualified otherwise than under the House of Commons Disqualification Act 1975 (c. 24) (either generally or in relation to a particular constituency) from being a member of the House of Commons or from sitting and voting in it.
- (3) For the purposes of subsection (2) the references to the Republic of Ireland in section 1 of the Representation of the People Act 1981 (c. 34) (disqualification of offenders detained in, or unlawfully at large from detention in, the British Islands or the Republic of Ireland) are to be treated as references to any member State (other than the United Kingdom).

Status: Point in time view as at 24/07/2018.

Changes to legislation: Government of Wales Act 2006, Cross Heading: Disqualification is up to date with all changes known to be in force on or before 14 July 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)

- (4) A person who holds office as lord-lieutenant, lieutenant or high sheriff of any area in Wales is disqualified from being an Assembly member for any Assembly constituency or Assembly electoral region wholly or partly included in that area.
- (5) An Order in Council under paragraph (b) of subsection (1)—
- (a) may designate particular offices or offices of any description, and
 - (b) may designate an office by reference to any characteristic of a person holding it,
- and in that paragraph and this subsection “office” includes any post or employment.
- (6) No recommendation is to be made to Her Majesty in Council to make an Order in Council under subsection (1)(b) unless a draft of the statutory instrument containing the Order in Council has been laid before, and approved by a resolution of, the Assembly.

Textual Amendments

F1 S. 16(1)(za) inserted (17.2.2015) by [Wales Act 2014 \(c. 29\)](#), **ss. 3(1), 29(2)(a)**

Commencement Information

I1 Ss. 1-94, 97-106 in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

17 Exceptions and relief from disqualification

- (1) A person is not disqualified from being an Assembly member merely because that person is—
- (a) a peer (whether of the United Kingdom, Great Britain, England or Scotland), or
 - (b) a Lord Spiritual.
- (2) A citizen of the European Union who is resident in the United Kingdom is not disqualified from being an Assembly member merely because of section 3 of the Act of Settlement (1700 c. 2) (disqualification of certain persons born outside United Kingdom).
- (3) The Assembly may resolve that the disqualification of any person who was, or is alleged to have been, disqualified from being an Assembly member on a ground within section 16(1) or (4) is to be disregarded if it appears to the Assembly—
- (a) that the ground has been removed, and
 - (b) that it is proper so to resolve.
- (4) A resolution under subsection (3) does not—
- (a) affect any proceedings under Part 3 of the Representation of the People Act 1983 (c. 2) as applied by or incorporated in an order under section 13, or
 - (b) enable the Assembly to disregard any disqualification which has been established in such proceedings or in proceedings under section 19.

Commencement Information

I2 Ss. 1-94, 97-106 in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

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[^{F2}17A Exception from disqualification by virtue of being an MP: recently elected members

- (1) A person returned at an election as an Assembly member is not disqualified under section 16(1)(za) (disqualification by virtue of being an MP) at any time in the period of 8 days beginning with the day the person is so returned.
- (2) Subsection (3) applies where a person—
 - (a) is returned at an election as an Assembly member,
 - (b) on being so returned is a candidate for election to the House of Commons, and
 - (c) is subsequently returned at that election as a member of that House.
- (3) The person is not disqualified under section 16(1)(za) at any time in the period of 8 days beginning with the day the person is returned as a member of the House of Commons.
- (4) A person is a “candidate for election to the House of Commons” if the person's nomination paper for election as a member of the House of Commons has been delivered to the returning officer under rule 6 of Schedule 1 to the Representation of the People Act 1983 (parliamentary election rules).

Textual Amendments

F2 Ss. 17A, 17B inserted (17.2.2015) by [Wales Act 2014 \(c. 29\)](#), ss. **3(2)**, 29(2)(a)

17B Exception from disqualification by virtue of being an MP: general election of Assembly members within 372 days

- (1) This section applies if—
 - (a) an Assembly member is returned as a member of the House of Commons, and
 - (b) the expected day of the next general election of Assembly members is within the period of 372 days beginning with the day the person is so returned (“the return day”).
- (2) The member is not disqualified under section 16(1)(za) (disqualification by virtue of being an MP) at any time in the period—
 - (a) beginning with the return day, and
 - (b) ending immediately before the day of the next general election of Assembly members.
- (3) For the purposes of subsection (1)(b) the expected day of the next general election of Assembly members is to be determined by reference to the circumstances as at the beginning of the return day (“the relevant time”).
- (4) Where, at the relevant time, section 5(2) or (3) (extraordinary general elections) applies—
 - (a) if an Order in Council under section 5(4) has been made, the expected day is the day on which the poll is required to be held in accordance with that Order;
 - (b) if no Order in Council under section 5(4) has been made but a day has been proposed under section 5(1), that is the expected day;
 - (c) otherwise, the expected day is to be treated as being within the period mentioned in subsection (1)(b).

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- (5) For the purpose of determining the expected day, no account is to be taken of the possibility of—
- (a) an order under section 4 (power to vary date of ordinary general election) being made after the relevant time, or
 - (b) section 5(2) or (3) (extraordinary general elections) first applying after that time.
- (6) References in this section to the “day” of the election are to the day on which the poll at the election is held.]

Textual Amendments

F2 Ss. 17A, 17B inserted (17.2.2015) by [Wales Act 2014 \(c. 29\)](#), **ss. 3(2), 29(2)(a)**

18 Effect of disqualification

- (1) If a person who is disqualified from being an Assembly member is returned as an Assembly member, the person's return is void and the person's seat is vacant.
- (2) If a person who is disqualified from being an Assembly member for a particular Assembly constituency or Assembly electoral region is returned as an Assembly member for that Assembly constituency or Assembly electoral region, the person's return is void and the person's seat is vacant.
- (3) If a person who is an Assembly member becomes disqualified—
- (a) from being an Assembly member, or
 - (b) from being an Assembly member for the Assembly constituency or Assembly electoral region for which the person is sitting,
- the person ceases to be an Assembly member (so that the person's seat is vacant).
- (4) Subsections (1) to (3) have effect subject to any resolution of the Assembly under section 17(3).
- (5) In addition, subsection (3) has effect subject to—
- ^{F3}(a)
 - (b) section 427 of the Insolvency Act 1986 (c. 45) (bankruptcy etc.).
- (6) If, in consequence of [^{F4}the provision] mentioned in subsection (5), the seat of a person who is disqualified from being an Assembly member is not vacant, the person does not cease to be an Assembly member until the person's seat becomes vacant.
- (7) But for any period for which the person is disqualified but the person's seat is not vacant—
- (a) the person must not participate in any Assembly proceedings, and
 - (b) any of the person's other rights and privileges as an Assembly member may be withdrawn by the Assembly.
- (8) The validity of any Assembly proceedings is not affected by the disqualification of any person—
- (a) from being an Assembly member, or
 - (b) from being an Assembly member for the Assembly constituency or Assembly electoral region for which the person purports to sit.

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Textual Amendments

- F3** S. 18(5)(a) omitted (28.4.2013) by virtue of [Mental Health \(Discrimination\) Act 2013 \(c. 8\), s. 4\(1\), Sch. para. 5\(1\)\(a\)](#)
- F4** Words in s. 18(6) substituted (28.4.2013) by [Mental Health \(Discrimination\) Act 2013 \(c. 8\), s. 4\(1\), Sch. para. 5\(1\)\(b\)](#)

Commencement Information

- I3** Ss. 1-94, 97-106 in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

19 Judicial proceedings as to disqualification

- (1) Any person who claims that a person purporting to be an Assembly member is, or at any time since being returned as an Assembly member has been, disqualified from being—
 - (a) an Assembly member, or
 - (b) an Assembly member for the Assembly constituency or Assembly electoral region for which the person purports to sit,may apply to the High Court for a declaration to that effect.
- (2) An application under subsection (1) in respect of any person may be made whether the grounds on which it is made are alleged to have subsisted at the time when the person was returned or to have arisen subsequently.
- (3) No declaration may be made under this section in respect of any person—
 - (a) on grounds which subsisted when the person was returned, if an election petition is pending or has been tried in which the person's disqualification on those grounds is or was in issue, or
 - (b) on any ground, if a resolution of the Assembly under section 17(3) requires that any disqualification incurred by the person on that ground is to be disregarded.
- (4) On an application under this section—
 - (a) the person in respect of whom the application is made is to be the respondent, and
 - (b) the applicant must give such security for the costs of the proceedings as the court may direct.
- (5) The amount of the security may not exceed £5,000 or such other sum as the Welsh Ministers may specify by order.
- (6) The decision of the court on an application under this section is final.
- (7) A statutory instrument containing an order under subsection (5) is subject to annulment in pursuance of a resolution of the Assembly.

Commencement Information

- I4** Ss. 1-94, 97-106 in force immediately after "the 2007 election" by s. 161(1) (subject to s. 161(4)(5))

Status:

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