

SCHEDULES

SCHEDULE 10

Section 38

DISQUALIFICATION ORDERS: MINOR AND CONSEQUENTIAL AMENDMENTS

Electoral Law Act (Northern Ireland) 1962

- 1 (1) Schedule 5 to the Electoral Law Act (Northern Ireland) 1962 (local elections rules) is amended as follows.
 - (2) In rule 10(2) (validity of nomination papers), after sub-paragraph (b) insert—
 - “(c) that an order under section 30 of the Elections Act 2022 (disqualification of offenders for holding elective office etc) has effect in relation to the candidate.”
 - (3) In the Appendix of Forms, in form 2 (consent to nomination), after “printed overleaf” insert “, or by reason of an order under section 30 of the Elections Act 2022”.

Local Government Act 1972

- 2 (1) The Local Government Act 1972 is amended as follows.
 - (2) In section 85(3A) (vacation of office by failure to attend meetings), after “2000” insert “, or suspended under section 31(4) of the Elections Act 2022,”.
 - (3) In section 86 (declaration by local authority of vacancy), in subsection (1)(b), after “1983” insert “, or by virtue of an order under section 30 of the Elections Act 2022”.
 - (4) In section 87 (date of casual vacancies)—
 - (a) in subsection (1), before paragraph (e) insert—
 - “(db) in the case of a disqualification by virtue of an order under section 30 of the Elections Act 2022 (disqualification of offenders for holding elective office etc), on the date the office is vacated in accordance with section 31 of that Act (vacation of office etc);”;
 - (b) after subsection (1) insert—
 - “(1A) In a case where subsection (1)(db) and one or both of subsections (1)(d) and (1)(da) apply in relation to a vacancy, the vacancy is to be deemed to have occurred on the date mentioned in subsection (1)(db).”

Local Government Act (Northern Ireland) 1972

- 3 (1) The Local Government Act (Northern Ireland) 1972 is amended as follows.
 - (2) In section 9(4) (vacation of office on account of non-attendance), after “2014” insert “, or suspended under section 31(4) of the Elections Act 2022,”.

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- (3) In section 10 (declaration of vacancy in office)—
- (a) the existing text becomes subsection (1);
 - (b) in paragraph (a) of that subsection, after “illegal practices” insert “, or of an order under section 30 of the Elections Act 2022”;
 - (c) after that subsection insert—
 - “(2) Where a councillor becomes disqualified for being a councillor by reason of both—
 - (a) an order under section 30 of the Elections Act 2022 (disqualification of offenders for holding elective office etc), and
 - (b) section 4(1)(cc) (disqualification by reason of imprisonment etc for an offence),
 section 31 of the Elections Act 2022 (vacation of office) applies in relation to the vacation of the office (and accordingly subsection (1) does not apply).”

Representation of the People Act 1983

- 4 (1) Schedule 1 to RPA 1983 (parliamentary election rules) is amended as follows.
- (2) In rule 12(2)(c) (validity of nomination), after “1981” insert “or by virtue of an order under section 30 of the Elections Act 2022”.

Northern Ireland Act 1998

- 5 (1) The Northern Ireland Act 1998 is amended as follows.
- (2) In section 37(4) (effect of disqualification)—
- (a) after “etc)” insert “and section 31 of the Elections Act 2022 (disqualification of offenders for holding elective office etc)”;
 - (b) for “that section” substitute “either of those sections”.

Greater London Authority Act 1999

- 6 (1) The Greater London Authority Act 1999 is amended as follows.
- (2) In section 6(5) (Assembly members: failure to attend meetings), after “2000” insert “, or suspended under section 31(4) of the Elections Act 2022,”.
- (3) In section 7(b) (Assembly members: declaration of vacancy in certain cases), after sub-paragraph (ia) insert—
- “(ib) by virtue of an order under section 30 of the Elections Act 2022 (disqualification of offenders for holding elective office etc),”.
- (4) In section 9 (Assembly members: date of casual vacancies)—
- (a) in subsection (1), after paragraph (f) insert—
 - “(fa) in the case of disqualification by virtue of an order under section 30 of the Elections Act 2022 (disqualification of offenders for holding elective office etc), on the date the

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office is vacated in accordance with section 31 of that Act (vacation of office etc);”;

(b) after subsection (1) insert—

“(1A) In a case where subsection (1)(fa) and (f) (in the case of a conviction) apply in relation to a vacancy, the vacancy is to be regarded as occurring on the date mentioned in subsection (1)(fa).”

(5) In section 13(2) (Mayor: failure to attend meetings), after “2000” insert “, or suspended under section 31(4) of the Elections Act 2022,”.

(6) In section 14(b) (Mayor: declaration of vacancy in certain cases), after subparagraph (ia) insert—

“(ib) by virtue of an order under section 30 of the Elections Act 2022 (disqualification of offenders for holding elective office etc),”.

Government of Wales Act 2006

7 (1) The Government of Wales Act 2006 is amended as follows.

(2) In section 18 (effect of disqualification)—

(a) in subsection (5), before paragraph (b) insert—

“(aa) section 31 of the Elections Act 2022 (disqualification of offenders for holding elective office etc);”;

(b) in subsection (6), for “the provision” substitute “either of the provisions”.

(3) In Part 1 of Schedule 1A (categories of persons disqualified), after paragraph 6 insert—

“Persons subject to a disqualification order

6A A person subject to a disqualification order under section 30 of the Elections Act 2022 (disqualification of offenders for holding elective office etc).”

Armed Forces Act 2006

8 (1) The Armed Forces Act 2006 is amended as follows.

(2) After section 236 insert—

“Disqualification of offenders for holding elective office etc

236A Disqualification orders

(1) This section applies where—

- (a) a person (“the offender”) is convicted of a qualifying section 42 offence by a court,
- (b) the offender was aged 18 or over when the offence was committed, and

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- (c) the court is satisfied beyond reasonable doubt that the offence is aggravated by hostility related to persons falling within any of sections 32 to 34 of the Elections Act 2022.
- (2) The court must, when dealing with the offender for the offence, also make an order (a “disqualification order”) that the offender is disqualified, for the period of 5 years beginning with the date on which the order is made—
 - (a) for being nominated for election to a relevant elective office, and
 - (b) for being elected to or holding a relevant elective office.
- (3) Subsection (2) does not apply where the court considers that there are particular circumstances relating to the offence or to the offender which would make it unjust in all the circumstances to make the order; and in such a case the court must state in open court the reasons for not making the order.
- (4) For the purposes of this section an offence is aggravated by hostility related to persons falling within any of sections 32 to 34 of the Elections Act 2022 if—
 - (a) at the time of committing the offence, or immediately before or after doing so, the offender demonstrated towards the victim of the offence hostility based on the victim being (or being presumed to be) a person falling within any of those sections, or
 - (b) the offence was motivated (wholly or partly) by hostility towards persons falling within any of those sections in their capacity as such.
- (5) For the purposes of subsection (4) it is immaterial whether or not the offender's hostility is also based, to any extent, on any other factor not mentioned in that subsection.
- (6) For the purpose of deciding whether to make a disqualification order the court may consider evidence led by the parties to the proceedings.
- (7) It is immaterial whether evidence led in pursuance of subsection (6) would have been admissible in the proceedings in which the offender was convicted.
- (8) Where a qualifying section 42 offence is found to have been committed—
 - (a) over a period of 2 or more days, or
 - (b) at some time during a period of 2 or more days,
 it is to be taken for the purposes of subsection (1)(b) to have been committed on the last of those days.
- (9) For the purposes of any appeal against a disqualification order—
 - (a) references in section 141 to a finding or punishment include the making of a disqualification order;
 - (b) references in section 16A of the Court Martial Appeals Act 1968 to passing a sentence include making a disqualification order.
- (10) In this section—
 - “court” means the court or officer sentencing the offender;
 - “presumed” means presumed by the offender;
 - “qualifying section 42 offence” means an offence under section 42 (criminal conduct) as respects which the corresponding

offence under the law of England and Wales is an offence listed in [Schedule 9](#) to the Elections Act 2022;

“relevant elective office” has the same meaning as in Part 5 of the Elections Act 2022 (see section 37 of that Act).

236B Effect of disqualification order

References (however expressed) in any enactment to an order under section 30 of the Elections Act 2022 include references to an order under section [236A](#).”

Police Reform and Social Responsibility Act 2011

9 (1) The Police Reform and Social Responsibility Act 2011 is amended as follows.

(2) In section 59 (date of vacancy in office of commissioner)—

(a) in subsection (1), after paragraph (d) insert—

“(e) in the case of disqualification by virtue of an order under section 30 of the Elections Act 2022 (disqualification of offenders for holding elective office etc), on the date the office is vacated in accordance with section 31 of that Act (vacation of office etc).”;

(b) after subsection (2) insert—

“(2A) In a case where subsection (1)(e) and (d) (in the case of a disqualification by virtue of section 66(3)(c)) apply in relation to a vacancy, the vacancy is to be regarded as occurring on the date mentioned in subsection (1)(e).”

Sentencing Act 2020

10 (1) The Sentencing Act 2020 is amended as follows.

(2) In section 379(1) (other behaviour orders etc), after the entry for the Psychoactive Substances Act 2016 insert—

“Elections Act 2022

section 30	disqualification order	Schedule 9 offence within the meaning of section 30 of that Act.”
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