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## STATUTORY INSTRUMENTS

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# 1985 No. 1208

## The Local Government (Miscellaneous Provisions) (Northern Ireland) Order 1985

### PART VII

#### AMENDMENT AND REPEAL OF PROVISIONS RELATING TO DISTRICT COUNCILS

*Miscellaneous amendments of the principal Act*

*Art. 23 rep. by 1995 NI 5*

#### ***Payment of allowance to vice-chairman of council***

**24.** <sup>F1</sup> .....

**F1** [Art. 24](#) repealed (1.4.2012) by [Local Government Finance Act \(Northern Ireland\) 2011](#) (c. 10), ss. 46, 47(2), [Sch. 2](#); S.R. 2011/306, [art. 2\(3\)](#)

#### ***Loans to officers for purchase of motor cars or motor cycles***

**25.** After section 41A of the principal Act there shall be inserted the following section—

**“Loans to officers for purchase of motor cars or motor cycles.**

**41B.** A council may make loans to such of its officers and subject to such conditions as the Department, with the approval of the Department of Finance and Personnel, may determine to facilitate such officers in the purchase of motor cars or motor cycles essential to the efficient carrying out of their official duties.”

#### ***Delegation of functions to officers***

**26.—**(1) After section 47 of the principal Act there shall be inserted the following section—

**“Delegation of functions to officers.**

**47A.—**(1) A council may arrange for the discharge of any of its functions, except the power of making a rate, or of borrowing money or of acquiring, holding or disposing of land, by an officer of the council and any transferred provision regulating the exercise of a function by a council shall also apply to regulate the exercise of that function by an officer of the council.

(2) Where any functions of a council may be discharged by a committee of the council, then, unless the council otherwise directs, the committee may arrange for the discharge of any of those functions by an officer of the council.

(3) Where any functions of a council may be discharged by a sub-committee of the council, then, unless the council or the committee otherwise directs, the sub-committee may arrange for the discharge of any of those functions by an officer of the council.”.

(2) In Schedule 7 to the principal Act (provisions applied to joint committee) after the entry relating to section 47 of the principal Act there shall be inserted the following entry—

“**47A.** Delegation of functions to officers.”.

***Custody and destruction of documents relating to securities created by a council***

**27.** <sup>F2</sup> .....

**F2** Art. 27 repealed (1.4.2012) by [Local Government Finance Act \(Northern Ireland\) 2011](#) (c. 10), ss. 46, 47(2), [Sch. 2](#); S.R. 2011/306, [art. 2\(3\)](#)

***Powers of auditor in relation to unlawful items of account, amounts not accounted for, etc.***

**28.** <sup>F3</sup> .....

**F3** Art. 28 repealed (1.4.2006) by [Local Government \(Northern Ireland\) Order 2005](#) (S.I. 2005/1968 (N.I. 18)), arts. 1, 28(8), [Sch. 1](#); S.R. 2006/151, [art. 2](#), [Sch. 1](#) (with art. 4)

***Regulations as to accounts and audit***

**29.** <sup>F4</sup> .....

**F4** Art. 29 repealed (1.4.2006) by [Local Government \(Northern Ireland\) Order 2005](#) (S.I. 2005/1968 (N.I. 18)), arts. 1, 28(8), [Sch. 1](#); S.R. 2006/151, [art. 2](#), [Sch. 1](#) (with art. 4)

***Studies for improving economy, etc. of services of councils***

**30.** <sup>F5</sup> .....

**F5** Art. 30 repealed (1.4.2006) by [Local Government \(Northern Ireland\) Order 2005](#) (S.I. 2005/1968 (N.I. 18)), arts. 1, 28(8), [Sch. 1](#); S.R. 2006/151, [art. 2](#), [Sch. 1](#) (with art. 4)

***Arrangements with specified bodies for supply of goods, services and staff***

**31.** In section 105 of the principal Act (arrangements for supply of goods and services and interchange of staff) in subsections (1), (2) and (6) after the words “public body” wherever they occur there shall be inserted the words “, specified body” and at the end there shall be added the following subsection—

“(7) In this section “specified body” means a body which is specified, or is of a description specified, in regulations and any such regulations may contain provisions—

- (a) for restricting the arrangements which may by virtue of the regulations be entered into by a specified body under subsection (1) or (2); and
- (b) for securing the inclusion in any such arrangements made by virtue of the regulations of terms imposing restrictions.” .

### ***Mode of voting at council meeting***

**32.** In Schedule 2 to the principal Act for paragraph 8 there shall be substituted the following paragraph—

“**8.**—(1) The mode of voting at meetings of the council shall, except as otherwise resolved by the council, be by show of hands.

(2) On the requisition of any councillor the voting on any question shall be recorded so as to show whether each councillor present and voting gave his vote for or against that question.”.

### ***Requisitioning of meetings of a council***

**33.** In Schedule 2 to the principal Act in paragraph 2 for sub-paragraph (2) there shall be substituted the following sub-paragraphs—

“(2) If a requisition for a meeting of the council signed by five councillors or by one-fifth of the whole number of the councillors, whichever is the greater, is presented to the chairman of the council, he shall call a meeting of the council to be held within the period of fourteen days from the date of service of the requisition on him.

(2A) If the chairman—

- (a) refuses to call a meeting of the council in accordance with sub-paragraph (2); or
- (b) does not, within the period of seven days from the date of service of the requisition on him, call a meeting of the council in accordance with sub-paragraph (2),

any five councillors or one-fifth of the whole number of the councillors, whichever is the greater, may on that refusal or on the expiration of that period forthwith call a meeting of the council.”.

### ***Miscellaneous amendments of other statutory provisions***

#### ***Article 34—Amendments***

### ***Regulations as to burial grounds of councils***

**35.** For section 181 of the Public Health (Ireland) Act 1878 there shall be substituted the following section—

#### **“Regulations as to burial grounds, &c.**

**181.**—(1) The Department of the Environment may by regulations make provision with respect to the management, regulation and control of burial grounds of district councils and places of reception of bodies previous to interment and such regulations may—

- (a) impose a fine for the contravention of any such regulations; and
- (b) contain such provision amending or repealing any statutory provision (including a provision in this Part) as appears to the Department to be necessary or proper in consequence of the regulations.

(2) Regulations under subsection (1) containing any such provision as is referred to in paragraph (b) of that subsection shall be subject to affirmative resolution and regulations not containing any such provision shall be subject to negative resolution.

(3) Regulations under subsection (1) may only be made after consultation with the district councils and other bodies appearing to the Department to be concerned.”.

### ***Minor amendments relating to burial grounds of councils***

**36.**—(1) The following statutory provisions (which prohibit the appropriation of land within one hundred yards of a dwelling house as a burial ground without the written consent of the owner) shall cease to have effect, namely—

- (a) section 10 of the Cemeteries Clauses Act 1847 (including that section as incorporated with any other Act);
- (b) in section 174 of the Public Health (Ireland) Act 1878 the words from “but no ground” to the end.

(2) At the end of Part III of the Public Health (Ireland) Act 1878 there shall be inserted the following section—

#### **“Interpretation of Part III.**

**199A.** In this Part—

“burial ground” means any place for the interment of the dead, including any part of any such place set aside for the interment of a dead person's ashes;

“statutory provision” has the meaning assigned to it by section 1(f) of the Interpretation Act (Northern Ireland) 1954,”.

(3) Sections 189 and 190 of the Public Health (Ireland) Act 1878 (which have been superseded by provisions of the principal Act) and section 29 of the Local Government (Ireland) Act 1898 (which is spent) are hereby repealed.

### ***Public health inspectors to be known as environmental health officers***

**37.** For any reference to a public health inspector in—

*Para. (a) rep. by 1989 NI 6*

- (b) section 8(6) or 153(2) of the Factories Act (Northern Ireland) 1965;

or in any other statutory provision there shall be substituted a reference to an environmental health officer appointed by a council in the exercise of its powers under section 41 of the principal Act.

### ***Nuisances under the Public Health (Ireland) Act 1878***

**38.** <sup>F6</sup> .....

**F6** Art. 38 repealed (1.4.2012) by [Clean Neighbourhoods and Environment Act \(Northern Ireland\) 2011](#) (c. 23), ss. 77(2), 78, [Sch. 4 Pt. 5](#); S.R. 2012/13, [art. 2\(2\)](#), Sch. 2

### ***Extension of licensing of knackers' yards by councils***

**39.**—(1) In section 2 of the Public Health (Ireland) Act 1878 for the definition of “knackers' yard” there shall be substituted the following definition—

““knacker's yard” means any place used for the purposes of, or in connection with,—

- (a) the slaughtering of animals not slaughtered for the purpose of the flesh being used for human consumption; or
- (b) the flaying, cutting up or processing of the carcasses of animals the flesh of which is not intended for human consumption;” .

(2) Section 106 of the Public Health (Ireland) Act 1878 (which requires the owner or occupier of any licensed or registered knacker's yard to affix a notice to the premises) shall cease to have effect.

***Filling of casual vacancy on council by co-option or election***

**40.**—(1) Section 11 of the Electoral Law Act (Northern Ireland) 1962 (election and term of office of members of district councils) shall have effect subject to the following provisions of this Article.

(2) In subsection (4) for the words “shall be filled in accordance with the Local Election Rules” there shall be substituted the words “shall be filled in accordance with subsection (4A)”.

(3) After subsection (4) there shall be inserted the following subsections—

“(4A) A casual vacancy to which subsection (4)(c) applies shall be filled by a person elected at an election to fill the vacancy and any other casual vacancy shall be filled—

- (a) by a person chosen by the council in accordance with subsection (4B); or
- (b) if no person is chosen as mentioned in paragraph (a), by a person elected at an election to fill the vacancy.

(4B) Where a casual vacancy in a district council falls to be filled in accordance with this subsection—

- (a) a meeting of the council to choose a person to fill the vacancy shall be held not less than 14 days nor more than 42 days after the occurrence of the vacancy;
- (b) the clerk of the council shall give every member of the council not less than 7 days written notice of the meeting which notice shall state as the first business of the meeting the choice of a person to fill the vacancy;
- (c) the council may at that meeting choose to fill the vacancy any person who is qualified to be a member of the council and is not objected to by any member of the council present at the meeting; and
- (d) any person so chosen shall be deemed for all purposes to have been duly elected a member of the council.

(4C) Where a meeting of a district council held in accordance with subsection (4B) fails to choose a person to fill a casual vacancy, the clerk of the council shall, within 7 days of the meeting, notify the Chief Electoral Officer—

- (a) that a casual vacancy has arisen in the council and that a meeting held in accordance with subsection (4B) has failed to choose a person to fill that vacancy;
- (b) of any other matter concerning the casual vacancy which has come to the knowledge of the clerk of the council.”.

*Para. (4) rep. by 1992 NI 6*

*Art. 41 rep. by 2002 NI 3*

*Article 42—Amendments*

*Article 43—Repeals*

**Changes to legislation:**

There are currently no known outstanding effects for the The Local Government (Miscellaneous Provisions) (Northern Ireland) Order 1985, PART VII.