



# Police Reform and Social Responsibility Act 2011

## 2011 CHAPTER 13

### PART 1

#### POLICE REFORM

### CHAPTER 6

#### POLICE AND CRIME COMMISSIONERS: ELECTIONS AND VACANCIES

#### *Disqualification*

#### **64 Disqualification from election as police and crime commissioner**

- (1) A person is disqualified from being elected to the office of police and crime commissioner for a police area at any election unless—
  - (a) the person has attained the age of 18 when nominated as a candidate at the election, and
  - (b) on each relevant day, the person is registered in the register of local government electors for an electoral area in respect of an address in the police area.
- (2) In this section “relevant day”, in relation to a person who is a candidate at an election, means—
  - (a) the day on which the person is nominated as a candidate at the election;
  - (b) the day of the poll at the election.
- (3) A person is disqualified from being elected to the office of police and crime commissioner for a police area at an ordinary election if the person has been nominated as a candidate for election as police and crime commissioner for any other police area at that election.

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- (4) A person is disqualified from being elected to the office of police and crime commissioner for a police area at an election other than an ordinary election if—
- (a) the person is police and crime commissioner for any other police area, or
  - (b) the person has been nominated as a candidate for election as police and crime commissioner for any other police area for which an election is held on the same day.

**65 Disqualification from election or holding office as police and crime commissioner: police grounds**

- (1) A person is disqualified from being elected as, or being, a police and crime commissioner if the person—
- (a) is disqualified from being a member of the House of Commons under section 1(1)(d) of the House of Commons Disqualification Act 1975 (members of police forces for police areas in the United Kingdom);
  - (b) is a member of—
    - (i) the British Transport Police Force;
    - (ii) the Civil Nuclear Constabulary;
  - (c) is a special constable appointed—
    - (i) under section 27 of the Police Act 1996 for a police area or the City of London police area;
    - (ii) under section 25 of the Railways and Transport Safety Act 2003 (British Transport Police Force);
  - (d) is a member of staff of the chief officer of police of any police force maintained for a police area;
  - (e) is a member of staff of—
    - (i) a police and crime commissioner;
    - (ii) the Mayor’s Office for Policing and Crime;
  - (f) is the Mayor of London;
  - (g) is a member of the Common Council of the City of London or a member of staff of that Council in its capacity as a police authority;
  - (h) is a member (including a member who is chairman or chief executive), or member of staff, of—
    - (i) the British Transport Police Authority;
    - (ii) the Civil Nuclear Police Authority;
    - (iii) the Independent Police Complaints Commission;
    - (iv) the Serious Organised Crime Agency;
    - (v) the National Policing Improvement Agency;
  - (i) holds any employment in an entity which is under the control of—
    - (i) a local policing body;
    - (ii) any body mentioned in paragraph (h);
    - (iii) the chief officer of police for any police force maintained for a police area or the City of London police area;
    - (iv) the chief officer of police for any police force mentioned in paragraph (b).
- (2) In this section, “member of staff”, in relation to any person (“A”), includes a person (“B”) who works for A—

- (a) under a contract of employment,
  - (b) under a contract for services, or
  - (c) in accordance with arrangements made between B's employer and A;
- and for this purpose B works for A if B provides services for A under the direction and control of A.
- (3) In subsection (1)(i), the reference to an entity under the control of a local policing body or other body or a chief officer of police is to be construed in accordance with regulations made by the Secretary of State.
- (4) In its application in relation to the first election of a police and crime commissioner to be held for a police area, this section applies as if—
- (a) for paragraphs (d) to (g) of subsection (1) there were substituted—
    - “(d) any member, or member of staff, of a police authority within the meaning of the Police Act 1996 (see section 101 of that Act);”, and
  - (b) for paragraph (i)(i) of that subsection there were substituted—
    - “(i) a police authority within the meaning of the Police Act 1996.”

## **66 Disqualification from election or holding office as police and crime commissioner: other grounds**

- (1) A person is disqualified from being elected as, or being, a police and crime commissioner unless the person satisfies the citizenship condition (see section 68).
- (2) A person is disqualified from being elected as, or being, a police and crime commissioner if the person—
- (a) is disqualified from being a member of the House of Commons under section 1(1)(a) to (c) of the House of Commons Disqualification Act 1975 (judges, civil servants, members of the armed forces), or
  - (b) is a member of the legislature of any country or territory outside the United Kingdom.
- (3) A person is disqualified from being elected as, or being, a police and crime commissioner if—
- (a) the person is the subject of—
    - (i) a debt relief restrictions order under paragraph 1 of Schedule 4ZB to the Insolvency Act 1986;
    - (ii) an interim debt relief restrictions order under paragraph 5 of that Schedule;
    - (iii) a bankruptcy restrictions order under paragraph 1 of Schedule 4A to that Act;
    - (iv) a bankruptcy restrictions interim order under paragraph 5 of that Schedule;
  - (b) a debt relief restrictions undertaking has effect in respect of the person under paragraph 7 of Schedule 4ZB to that Act;
  - (c) the person has been convicted in the United Kingdom, the Channel Islands, or the Isle of Man, of any imprisonable offence (whether or not sentenced to a term of imprisonment in respect of the offence); or

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- (d) the person is incapable of being elected as a member of the House of Commons, or is required to vacate a seat in the House of Commons, under Part 3 of the Representation of the People Act 1983 (consequences of corrupt or illegal practices).
- (4) For the purpose of subsection (3)(c)—
  - (a) “imprisonable offence” means an offence—
    - (i) for which a person who has attained the age of 18 years may be sentenced to a term of imprisonment, or
    - (ii) for which, in the case of such a person, the sentence is fixed by law as life imprisonment;
  - (b) a person is to be treated as having been convicted—
    - (i) on the expiry of the ordinary period allowed for an appeal or application in respect of the conviction, or
    - (ii) if an appeal or application is made in respect of the conviction, when the appeal or application is finally disposed of or abandoned or fails by reason of non-prosecution.
- (5) A person is disqualified from being elected as, or being, police and crime commissioner for a police area if the person—
  - (a) is a member of staff of a relevant council, or
  - (b) holds any employment in an entity which is under the control of a relevant council within subsection (7)(a), (b), (c) or (f).
- (6) For this purpose—
  - “member of staff” has the same meaning as in section 65;
  - “relevant council”, in relation to a police area, means a council within subsection (7) for an area which, or any part of which, lies within the police area.
- (7) Those councils are—
  - (a) a county council;
  - (b) a county borough council;
  - (c) a district council;
  - (d) a parish council;
  - (e) a community council;
  - (f) the Council of the Isles of Scilly.
- (8) In subsection (5)(b), the reference to an entity under the control of a relevant council is to be construed in accordance with regulations made by the Secretary of State.
- (9) Nothing in subsection (5) is to be taken to disqualify a person by virtue of being a teacher, or otherwise employed, in a school or other educational institution maintained or assisted by a relevant council.

## **67 Disqualification of person holding office as police and crime commissioner**

A person becomes disqualified from being a police and crime commissioner upon becoming a member of—

- (a) the House of Commons;
- (b) the Scottish Parliament;

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- (c) the National Assembly for Wales;
- (d) the Northern Ireland Assembly;
- (e) the European Parliament.

## **68      Citizenship condition**

- (1) This section applies for the purposes of section 66.
- (2) A person satisfies the citizenship condition if the person is—
  - (a) a qualifying Commonwealth citizen,
  - (b) a citizen of the Republic of Ireland, or
  - (c) a citizen of the Union.
- (3) For the purposes of this section, a person is a qualifying Commonwealth citizen if the person is a Commonwealth citizen and—
  - (a) is not a person who requires leave under the Immigration Act 1971 to enter or remain in the United Kingdom, or
  - (b) is a person who requires such leave but for the time being has (or is, by virtue of any enactment, to be treated as having) indefinite leave to remain within the meaning of that Act.
- (4) But a person who does not require leave to enter or remain in the United Kingdom by virtue only of section 8 of the Immigration Act 1971 (exceptions to requirement for leave in special cases) is not a qualifying Commonwealth citizen by virtue of subsection (3)(a).
- (5) In this section the expression “citizen of the Union” is to be construed in accordance with Article 20(1) of the Treaty on the Functioning of the European Union.

## **69      Validity of acts**

The acts of a person elected as police and crime commissioner for a police area under this Chapter who acts in that office are, despite any disqualification—

- (a) from being, or being elected as, a police and crime commissioner, or
  - (b) from being, or being elected as police and crime commissioner for that area,
- as valid and effectual as if the person had not been so disqualified.