



# WARNHAM PARISH COUNCIL

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## TERMS OF OFFICE

### **Local Government Act 1972, Part V**

#### *Qualifications and disqualifications*

#### **79 Qualifications for election and holding office as member of local authority.**

- (1) A person shall, unless disqualified by virtue of this Act or any other enactment, be qualified to be elected and to be a member of a local authority if he is a qualifying Commonwealth citizen or a citizen of the Republic of Ireland or a relevant citizen of the Union and on the relevant day he has attained the age of eighteen years and—
- a) on that day he is and thereafter he continues to be a local government elector for the area of the authority; or
  - b) he has during the whole of the twelve months preceding that day occupied as owner or tenant any land or other premises in that area; or
  - c) his principal or only place of work during that twelve months has been in that area; or
  - d) he has during the whole of those twelve months resided in that area; or
  - e) in the case of a member of a parish or community council he has during the whole of those twelve months resided either in the parish or community or within three miles of it.
- (2) In this section “relevant day”, in relation to any candidate, means—
- a) except in the case of an election not preceded by the nomination of candidates, the day on which he is nominated as a candidate and also, if there is a poll, the day of election; and
  - b) in the said excepted case, the day of election.
- (2A) In this section the expression “citizen of the Union” shall be construed in accordance with Article 8.1 of the Treaty establishing the European Community (as amended by Title II of the Treaty on European Union, and “relevant citizen of the Union” means such a citizen who is not a Qualifying Commonwealth citizen or a citizen of the Republic of Ireland.
- (2B) For the purposes of this section, a person is a qualifying Commonwealth citizen if he is a Commonwealth citizen who either—

- a) is not a person who requires leave under the Immigration Act 1971 to enter or remain in the United Kingdom, or
- b) is such a person 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.

(2C) But a person is not a qualifying Commonwealth citizen by virtue of subsection (2B)(a) if he 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).

## **80 Disqualifications for election and holding office as member of local authority.**

(1) Subject to the provisions of section 81 below, a person shall be disqualified for being elected or being a member of a local authority if he—

- a) holds any paid office or employment (other than the office of chairman, vice-chairman or deputy chairman or, in the case of a local authority which are operating executive arrangements which involve a leader and cabinet executive, the office of executive leader or member of the executive appointments or elections to which are or may be made or confirmed by the local authority or any committee or sub-committee of the authority or by a joint committee or National Park authority on which the authority are represented or by any person holding any such office or employment; or
- (aa) holds any employment in a company which, in accordance with Part V of the Local Government and Housing Act 1989 other than section 73, is under the control of the local authority; or]
- b) is the subject of a bankruptcy restrictions order or interim order;]
- c) .....
- d) has within five years before the day of election or since his election been convicted in the United Kingdom, the Channel Islands or the Isle of Man of any offence and has had passed on him a sentence of imprisonment (whether suspended or not) for a period of not less than three months without the option of a fine; or
- e) is disqualified for being a member of the relevant council under Part III of the Representation of the People Act 1983 or for being a charter trustee under the Audit Commission Act 1999, and in this paragraph “the relevant council” means the council of the county or district in which is comprised the area for which charter trustees are established by any statutory instrument made under Part II of the Local Government 1992.

(2) Subject to the provisions of section 81 below, a paid officer of a local authority who is employed under the direction of—

- a) a committee or sub-committee of the authority any member of which is appointed on the nomination of some other local authority; or
- b) a joint board, joint authority economic prosperity board, combined authority, joint waste authority or joint committee on which the authority are represented and any member of which is so appointed;
- c) shall be disqualified for being elected or being a member of that other local authority.

(2A) Subsection (2) above shall have effect as if the reference to a joint board included a reference to a National Park authority.

(2B) For the purposes of this section a local authority shall be treated as represented on a National Park authority if it is entitled to make any appointment of a local authority member of the National Park authority.

(3) Subsection (1)(a) shall have effect in relation to a teacher in a school maintained by the local authority who does not hold an employment falling within that provision as it has effect in relation to a teacher in such a school who holds such an employment.

(5) For the purposes of subsection (1) (d) above, the ordinary date on which the period allowed for making an appeal or application with respect to the conviction expires or, if such an appeal or application is made, the date on which the appeal or application is finally disposed of or abandoned or fails by reason of the non-prosecution thereof shall be deemed to be the date of the conviction,

### **81 Exceptions to provisions of section 80.**

(2) Where a person is disqualified under section 80 above by reason of his having made a composition or arrangement with his creditors and he pays his debts in full, the disqualification shall cease on the date on which the payment is completed and in any other case it shall cease on the expiration of five years from the date on which the terms of the deed of composition or arrangement are fulfilled.

(4) Section 80(2) and (3) above shall not operate so as to disqualify—

(a) any person by reason of his being a teacher, or otherwise employed, in a school, or other educational institution maintained or assisted by a county council for being a member of a district council by reason that the district council nominates members of the education committee of the county council;