

Local Government and Housing Act 1989

9 Assistants for political groups.

(1) Nothing in section 7(1) above or in any enactment, standing order or rule of law by virtue of which it is unlawful for a relevant authority or any committee or sub-committee of such an authority to have regard to any person's political activities or affiliations in determining whether he should be appointed to any paid office or employment under the authority shall apply to the appointment of a person in pursuance of this section.

(2) An appointment is an appointment in pursuance of this section if—

(a) the appointment is made for the purpose of providing assistance, in the discharge of any of their functions as members of a relevant authority, to the members of any political group to which members of the authority belong;

(b) the terms of the appointment comply with subsection (3) below;

(c) the appointment is to one of not more than three posts which a relevant authority have decided to create for the purposes of this section; and

(d) each of those posts falls, under the standing orders of the authority, to be filled from time to time in accordance with the wishes of a political group to which the post has been allocated under those standing orders.

(3) The terms on which any person is appointed to or holds any appointment in pursuance of this section must be such as secure that the annual rate of remuneration for the post is less than the relevant amount and that the appointment terminates at or before the end of—

(a) in the case of a post under an authority in England and Wales, the day in the appropriate year on which the authority hold the meeting which they are required to hold in pursuance of paragraph 1 of Part I of Schedule 12 to the Local Government Act 1972 (annual meeting of principal councils); and

(b) in the case of a post under an authority in Scotland, the first day after the appointment on which a meeting is held in pursuance of the requirement under paragraph 1 of Schedule 7 to the Local Government (Scotland) Act 1973 that a meeting is held within twenty-one days from the date of an election.

(4) For the purposes of subsection (3) above the annual rate of remuneration for a post under a relevant authority is less than the relevant amount if the annual rate of remuneration in respect of the post—

(a) is less than £13,500 or such higher amount as the Secretary of State may by order made by statutory instrument specify; and

(b) where that post is a part time post, would be less than that amount if it were a full time post and carried remuneration at the same rate;

and a statutory instrument containing an order under this subsection shall be subject to annulment in pursuance of a resolution of either House of Parliament.

(4A) An order made under subsection (4)(a) above in relation to England or Wales may, instead of specifying an amount, specify a point on a relevant scale specified by the order.

(4B) A “relevant scale” is a scale consisting of points and of amounts corresponding to those points.

(4C) In relation to any time while an order made by virtue of subsection (4A) above is in force, the amount that at that time corresponds to the point specified by the order is to be treated for the purposes of subsection (4)(a) above as specified by the order.

(5) The standing orders of a relevant authority the members of which are divided into different political groups shall, for the purposes of subsection (2)(d) above—

(a) prohibit the making of an appointment to any post allocated to a political group until the authority have allocated a post to each of the groups which qualify for one;

(b) prohibit the allocation of a post to a political group which does not qualify for one; and

(c) prohibit the allocation of more than one post to any one political group.

(6) Subject to subsection (7) below, where the members of a relevant authority are divided into different political groups, a group shall qualify for a post if—

(a) the membership of that group comprises at least one-tenth of the membership of the authority;

(b) the number of the other groups (if any) which are larger than that group does not exceed two; and

(c) where the number of the other groups which are the same size as or larger than that group exceeds two, the authority have determined that that group should be a group to which a post is allocated;

and it shall be the duty of a relevant authority, before making any allocation for the purposes of this section in a case in which there are groups which would qualify for posts if paragraph (c) above were disregarded, to make such determinations under that paragraph as secure that there are no more nor less than three groups which do qualify for a post.

(7) Where the members of a relevant authority are divided into political groups only one of which has a membership that comprises one-tenth or more of the membership of the authority—

(a) the groups qualifying for a post shall be that group and one other group; and

(b) the other group shall be the one with the next largest membership or, in a case in which there is more than one group with the next largest membership, such one of those groups as may be determined by the authority;

and, in such a case, it shall be the duty of the authority to determine which of the groups with the next largest membership is to qualify for a post before making any allocation for the purposes of this section to the group with the largest membership.

(8) Neither a relevant authority nor any committee or sub-committee of a relevant authority shall exercise any power under—

(a) section 101 of the Local Government Act 1972 (delegation); or

(b) section 56 of, or Schedule 10 or 20 to, the Local Government (Scotland) Act 1973 (which makes corresponding provision for Scotland); or

(c) Part II of the Local Government Act 2000 (arrangements with respect to executives etc.)

so as to arrange for the discharge of any of the authority's functions by any person who holds a post under the authority to which he was appointed in pursuance of this section.

(8A) Neither an executive, a committee of an executive or a member of an executive, of a relevant authority, shall exercise any power under—

(a) sections 14 to 18 of the Local Government Act 2000 (discharge of functions); or

(b) section 101(5) of the Local Government Act 1972 (arrangements for the discharge of functions by local authorities),

so as to arrange for the discharge of any of the authority's functions by any person who holds a post under the authority to which he was appointed in pursuance of this section.

(8B) An area committee of a relevant authority shall not exercise any power under arrangements made under regulations made under section 18 of the Local Government Act 2000 (discharge of functions by area committees) so as to arrange for the discharge of any of the authority's functions by any person who holds a post under the authority to which he was appointed in pursuance of this section.

(9) No person holding any office or employment under a relevant authority shall be required to work under the direction of a person holding a post to which he was appointed in pursuance of this section except for the purpose of providing that person, or the political group to which his post is allocated, with secretarial or clerical services.

(10) Without prejudice to section 8 above, the Secretary of State may, for the purposes of this section and any standing orders relating to appointments in pursuance of this section, by regulations make provision—

(a) as to the circumstances in which the members of a relevant authority are to be treated as divided into different political groups;

(b) as to the persons who are to be treated as members of such a group and as to when a person is to be treated as having ceased to be a member of such a group;

(c) requiring the question whether a person is or is not a member of a political group to be determined in such manner as may be provided for by or under the regulations;

(d) requiring a relevant authority from time to time to review allocations made for the purposes of this section;

(e) specifying the manner in which, and times at which, the wishes of a political group are to be expressed and the consequences of a failure by such a group to express its wishes;

and regulations under this section may contain such incidental provision and such supplemental, consequential and transitional provision in connection with their other provisions as the Secretary of State considers appropriate.

(11) In this section—

- “appropriate year”, in relation to a post held by any person under a relevant authority, means—where the authority is subject to whole council elections by virtue of Chapter 1 of Part 2 of the Local Government and Public Involvement in Health Act 2007, the period of twelve months beginning with the first such election to be held after that person is appointed to that post; and in any other case, the period of twelve months beginning with the third anniversary of that person’s appointment to that post;
- “area committee” has the same meaning as in section 18 of the Local Government Act 2000;
- “membership”, in relation to a relevant authority, means the number of persons who are for the time being members of the authority;
- “relevant authority”— in relation to England and Wales, means the council of any county, county borough district or London borough; and in relation to Scotland, means a council constituted under section 2 of the Local Government etc. (Scotland) Act 1994