

# **Local Government (Disqualification) Bill**

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## EXPLANATORY NOTES

Explanatory notes to the Bill, prepared by the Department for Levelling Up, Housing and Communities, with the consent of Sir Paul Beresford, the member in charge of the Bill, are published separately as Bill 29-EN.

# **Local Government (Disqualification) Bill**

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**B I L L**

TO

Make provision about the grounds on which a person is disqualified from being elected to, or holding, certain positions in local government in England.

**B**E IT ENACTED by the Queen’s most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

*Grounds of disqualification***1 Members of local authorities in England etc**

(1) In the Local Government Act 1972, after section 81 insert—

**“81A Disqualification relating to sexual offences etc (England)**

- |     |  |    |
|-----|--|----|
| (1) | A person is disqualified for being elected or being a member of a local authority in England if the person is subject to—                          | 5  |
|     | (a) any relevant notification requirements, or   |    |
|     | (b) a relevant order.  |    |
| (2) | In this section “relevant notification requirements” means—  |    |
|     | (a) the notification requirements of Part 2 of the Sexual Offences Act 2003;   | 10 |
|     | (b) the notification requirements of Part 2 of the Sex Offenders (Jersey) Law 2010;  |    |
|     | (c) the notification requirements of Part 2 of the Criminal Justice (Sex Offenders and Miscellaneous Provisions) (Bailiwick of Guernsey) Law 2013; | 15 |
|     | (d) the notification requirements of Schedule 1 to the Criminal Justice Act 2001 (an Act of Tynwald: c. 4).  |    |
| (3) | In this section “relevant order” means—  |    |
|     | (a) a sexual harm prevention order under section 345 of the Sentencing Code;   | 20 |
|     | (b) a sexual harm prevention order under section 103A of the Sexual Offences Act 2003;   |    |

- (c) a sexual offences prevention order under section 104 of that Act;
- (d) a sexual risk order under section 122A of that Act;
- (e) a risk of sexual harm order under section 123 of that Act;
- (f) a risk of sexual harm order under section 2 of the Protection of Children and Prevention of Sexual Offences (Scotland) Act 2005; 5
- (g) a sexual risk order under section 27 of the Abusive Behaviour and Sexual Harm (Scotland) Act 2016;
- (h) a restraining order under Article 10 of the Sex Offenders (Jersey) Law 2010; 10
- (i) a child protection order under Article 11 of that Law;
- (j) a sexual offences prevention order under section 18 of the Criminal Justice (Sex Offenders and Miscellaneous Provisions) (Bailiwick of Guernsey) Law 2013;
- (k) a risk of sexual harm order under section 22 of that Law; 15
- (l) a sexual offences prevention order under section 1 of the Sex Offenders Act 2006 (an Act of Tynwald: c. 20);
- (m) a risk of sexual harm order under section 5 of that Act.
- (4) For the purposes of subsection (1)(a), a person who is subject to any relevant notification requirements is not to be regarded as disqualified until – 20
- (a) the expiry of the ordinary period allowed for making an appeal or application against the conviction, finding, caution, order or certification in respect of which the person is subject to the relevant notification requirements, or 25
- (b) if such an appeal or application is made, the date on which it is finally disposed of or abandoned or fails because it is not prosecuted.
- (5) For the purposes of subsection (1)(b) a person who is subject to a relevant order is not to be regarded as disqualified until – 30
- (a) the expiry of the ordinary period allowed for making an appeal against the relevant order, or
- (b) if such an appeal is made, the date on which it is finally disposed of or abandoned or fails because it is not prosecuted.”
- (2) In that Act, in section 80 (disqualifications for election and holding office as member of local authority), after subsection (5) insert – 35
- “(5A) See also section 81A (disqualification relating to sexual offences etc (England)).”
- (3) In regulation 7 of the Charter Trustee Regulations 1996 (S.I. 1996/263) (appointment of local government electors as trustees), in paragraph (6), after “(2)” insert “, 81A”. 40
- (4) In the Local Elections (Parishes and Communities) (England and Wales) Rules 2006 (S.I. 2006/3305)--
- (a) in paragraph 7(b)(i) of Schedule 2 (rules for elections of Councillors of a Parish or Community), for “and 81” substitute “, 81 and 81A”; 45
- (b) in paragraph 7(b)(i) of Schedule 3 (rules for elections of Councillors of a Parish or Community where combined with other election or referendum), for “and 81” substitute “, 81 and 81A”.

- (5) In the Local Authorities (Mayoral Elections) (England and Wales) Regulations 2007 (S.I. 2007/1024)--
- (a) in paragraph 9(b)(i) of Schedule 1 (the Mayoral Elections Rules), for “and 81” substitute “, 81 and 81A”;
  - (b) in paragraph 9(b)(i) of Schedule 3 (Mayoral Election (Combination of Polls) Rules), for “and 81” substitute “, 81 and 81A”. 5
- (6) In regulation 5 of the Local Authority (Public Health, Health and Wellbeing Boards and Health Scrutiny) Regulations 2013 (S.I. 2013/218) (appointments to Health and Wellbeing Boards), in paragraph (2) –
- (a) after “(d)” insert “or section 81A”; 10
  - (b) for “or criminal conviction” substitute “, criminal conviction or sexual offences etc”.

## 2 Mayors of combined authorities

- (1) The Local Democracy, Economic Development and Construction Act 2009 is amended in accordance with subsections (2) and (3). 15
- (2) In Schedule 5B (mayors for combined authority areas: further provision about elections), after paragraph 9 insert –
- “9A (1) A person is disqualified for being elected or holding office as the mayor for the area of a combined authority if the person is subject to – 20
- (a) any relevant notification requirements, or
  - (b) a relevant order.
- (2) In this paragraph “relevant notification requirements” mean –
- (a) the notification requirements of Part 2 of the Sexual Offences Act 2003; 25
  - (b) the notification requirements of Part 2 of the Sex Offenders (Jersey) Law 2010;
  - (c) the notification requirements of Part 2 of the Criminal Justice (Sex Offenders and Miscellaneous Provisions) (Bailiwick of Guernsey) Law 2013; 30
  - (d) the notification requirements of Schedule 1 to the Criminal Justice Act 2001 (an Act of Tynwald: c. 4).
- (3) In this paragraph “relevant order” means –
- (a) a sexual harm prevention order under section 345 of the Sentencing Code; 35
  - (b) a sexual harm prevention order under section 103A of the Sexual Offences Act 2003;
  - (c) a sexual offences prevention order under section 104 of that Act;
  - (d) a sexual risk order under section 122A of that Act; 40
  - (e) a risk of sexual harm order under section 123 of that Act;
  - (f) a risk of sexual harm order under section 2 of the Protection of Children and Prevention of Sexual Offences (Scotland) Act 2005;
  - (g) a sexual risk order under section 27 of the Abusive Behaviour and Sexual Harm (Scotland) Act 2016. 45

- (h) a restraining order under Article 10 of the Sex Offenders (Jersey) Law 2010;
- (i) a child protection order under Article 11 of that Law;
- (j) a sexual offences prevention order under section 18 of that Law; 5
- (k) a risk of sexual harm order under section 22 of that Law;
- (l) a sexual offences prevention order under section 1 of the Sex Offenders Act 2006 (an Act of Tynwald: c. 20);
- (m) a risk of sexual harm order under section 5 of that Act.
- (4) For the purposes of sub-paragraph (1)(a), a person who is subject to any relevant notification requirements is not to be regarded as disqualified until – 10
- (a) the expiry of the ordinary period allowed for making an appeal or application against the conviction, finding, caution, order or certification in respect of which the person is subject to the relevant notification requirements, or 15
- (b) if such an appeal or application is made, the date on which it is finally disposed of or abandoned or fails because it is not prosecuted.
- (5) For the purposes of sub-paragraph (1)(b) a person who is subject to a relevant order is not to be regarded as disqualified until – 20
- (a) the expiry of the ordinary period allowed for making an appeal against the relevant order, or
- (b) if such an appeal is made, the date on which it is finally disposed of or abandoned or fails because it is not prosecuted.” 25
- (3) In Schedule 5C (mayors for combined authority areas: PCC functions), in paragraph 9, for “and 9” substitute “, 9 and 9A”.
- (4) In the Combined Authorities (Mayoral Elections) Order 2017 (S.I. 2017/67) – 30
- (a) in paragraph 9(1)(b) of Schedule 1 (the Combined Authority Mayoral Elections Rules), after “9” insert “and 9A”;
- (b) in paragraph 9(1)(b) of Schedule 3 (Combined Authority Mayoral Election (Combination of Polls) Rules), after “9” insert “and 9A”.
- 3 The Mayor of London and London Assembly members**
- (1) In the Greater London Authority Act 1999, after section 21 insert – 35
- “21A Disqualification relating to sexual offences etc**
- (1) A person is disqualified from being elected or being the Mayor or an Assembly member if the person is subject to –
- (a) any relevant notification requirements, or
- (b) a relevant order. 40
- (2) In this section “relevant notification requirements” means –
- (a) the notification requirements of Part 2 of the Sexual Offences Act 2003;
- (b) the notification requirements of Part 2 of the Sex Offenders (Jersey) Law 2010; 45

- (c) the notification requirements of Part 2 of the Criminal Justice (Sex Offenders and Miscellaneous Provisions) (Bailiwick of Guernsey) Law 2013;
- (d) the notification requirements of Schedule 1 to the Criminal Justice Act 2001 (an Act of Tynwald: c. 4). 5
- (3) In this section “relevant order” means –
- (a) a sexual harm prevention order under section 345 of the Sentencing Code;
- (b) a sexual harm prevention order under section 103A of the Sexual Offences Act 2003; 10
- (c) a sexual offences prevention order under section 104 of that Act;
- (d) a sexual risk order under section 122A of that Act;
- (e) a risk of sexual harm order under section 123 of that Act;
- (f) a risk of sexual harm order under section 2 of the Protection of Children and Prevention of Sexual Offences (Scotland) Act 2005; 15
- (g) a sexual risk order under section 27 of the Abusive Behaviour and Sexual Harm (Scotland) Act 2016;
- (h) a restraining order under Article 10 of the Sex Offenders (Jersey) Law 2010; 20
- (i) a child protection order under Article 11 of that Law;
- (j) a sexual offences prevention order under section 18 of the Criminal Justice (Sex Offenders and Miscellaneous Provisions) (Bailiwick of Guernsey) Law 2013;
- (k) a risk of sexual harm order under section 22 of that Law; 25
- (l) a sexual offences prevention order under section 1 of the Sex Offenders Act 2006 (an Act of Tynwald: c. 20);
- (m) a risk of sexual harm order under section 5 of that Act.
- (4) For the purposes of subsection (1)(a), a person who is subject to any relevant notification requirements is not to be regarded as disqualified until – 30
- (a) the expiry of the ordinary period allowed for making an appeal or application against the conviction, finding, caution, order or certification in respect of which the person is subject to the relevant notification requirements, or 35
- (b) if such an appeal or application is made, the date on which it is finally disposed of or abandoned or fails because it is not prosecuted.
- (5) For the purposes of subsection (1)(b) a person who is subject to a relevant order is not to be regarded as disqualified until – 40
- (a) the expiry of the ordinary period allowed for making an appeal against the relevant order, or
- (b) if such an appeal is made, the date on which it is finally disposed of or abandoned or fails because it is not prosecuted.
- (6) This section applies in relation to being returned as a London member under section 11 otherwise than at an election as it applies in relation to being elected.” 45

- (2) In the Greater London Authority Elections Rules 2007 (S.I. 2007/3541)–

- (a) in paragraph 7(2)(b)(i) of Schedule 1 (the Constituency Member Election Rules), after “21” insert “or 21A”;
- (b) in paragraph 9(2)(c)(i) of Schedule 2 (the London Member Election Rules), after “21” insert “or 21A”;
- (c) in paragraph 8(2)(b)(i) of Schedule 3 (the Mayoral Election Rules), after “21” insert “or 21A”; 5
- (d) in paragraph 7(2)(b)(i) of Schedule 5 (the Constituency Members Election Rules for elections combined with a relevant election or referendum), after “21” insert “or 21A”;
- (e) in paragraph 9(2)(c)(i) of Schedule 6 (the London Member Election Rules for elections combined with a relevant election or referendum), after “21” insert “or 21A”; 10
- (f) in paragraph 8(2)(b)(i) of Schedule 7 (the Mayoral Election Rules for elections combined with a relevant election or referendum), after “21” insert “or 21A”. 15

*Supplementary and final provisions*

#### **4 References to Channel Islands or Isle of Man legislation**

- (1) The Secretary of State may by regulations make such amendments to any relevant provision as the Secretary of State considers appropriate in consequence of the amendment, repeal or re-enactment of any legislation of any of the Channel Islands or the Isle of Man which is for the time being specified in that provision. 20
- (2) In subsection (1) “relevant provision” means —
  - (a) section 81A of the Local Government Act 1972;
  - (b) paragraph 9A of Schedule 5B to the Local Democracy, Economic Development and Construction Act 2009; 25
  - (c) section 21A of the Greater London Authority Act 1999.
- (3) Regulations under this section are to be made by statutory instrument.
- (4) A statutory instrument containing regulations under this section may not be made unless a draft of the instrument has been laid before and approved by a resolution of each House of Parliament. 30

#### **5 Transitional provision**

- (1) The amendments made by this Act do not have the effect of disqualifying a person by reason of the person becoming subject to —
  - (a) any relevant notification requirements, or 35
  - (b) a relevant order,
 before the day on which this Act comes into force.
- (2) In subsection (1) “relevant notification requirements” and “relevant order” have the same meaning as in section 81A of the Local Government Act 1972, paragraph 9A of Schedule 5B to the Local Democracy, Economic Development and Construction Act 2009 and section 21A of the Greater London Authority Act 1999 as first enacted. 40

**6 Extent, commencement and short title**

- (1) This Act extends to England and Wales only.
- (2) This Act comes into force at the end of the period of two months beginning with the day on which it is passed.
- (3) This Act may be cited as the Local Government (Disqualification) Act 2021.

# **Local Government (Disqualification) Bill**

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## **B I L L**

To make provision about the grounds on which a person is disqualified from being elected to, or holding, certain positions in local government in England.

*Presented by Sir Paul Beresford.*

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*Ordered, by The House of Commons,  
to be Printed, 16th June 2021.*

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