

Local Government Act 2002

Schedule 7

5 Extraordinary vacancies

- (1) The office of a member of a local authority becomes vacant, and the vacancy that is created is an extraordinary vacancy, if the member—
- (a) dies; or
 - [(b) becomes subject to a property order made under section 31 of the Protection of Personal and Property Rights Act 1988; or]
 - (c) is disqualified from, or is ousted from, office; or
 - (d) is absent without leave of the local authority from 4 consecutive [meetings (other than extraordinary meetings)] of the local authority; or
 - (e) resigns under clause 4.
- (2) Sections 117 to 120 of the Local Electoral Act 2001 apply to extraordinary vacancies.

[...]

29 Proceedings not invalidated by vacancies, irregularities, etc

An act or proceeding of a local authority or committee, or of a person acting as a member of a local authority or committee, is not invalidated by—

- (a) a vacancy in the membership of the local authority or committee at the time of that act or proceeding; or
- (b) the subsequent discovery—
 - (i) of some defect in the election or appointment of the person acting as a member of the local authority or committee; or
 - (ii) that that person was or is incapable of being a member.

Local Electoral Act 2001

117 Extraordinary vacancy in local authority or [local board or] community board

- (1) If a vacancy occurs in the office of a member of a local authority or in the office of an elected member of a [local board or] community board more than 12 months before the next triennial general election, the vacancy must be filled by an election under this Act.
- (2) If a vacancy occurs in the office of a member of a local authority or in the office of an elected member of a [local board or] community board 12 months or less than 12 months before the next triennial general election, the [chief executive] of the local authority concerned must notify the local authority or [local board or] community board of the vacancy immediately.

- (3) On receiving notice under subsection (2), the local authority or [local board or] community board must, at its next [meeting (other than an extraordinary meeting)] or, if that is not practicable, at its next subsequent [meeting (other than an extraordinary meeting)], determine by resolution—
- (a) that the vacancy will be filled by the appointment by the local authority or [local board or] community board of a person named in the resolution who is qualified to be elected as a member; or
 - (b) that the vacancy is not to be filled.
- (4) If for any reason the person specified in the resolution is unavailable, or otherwise unable to be notified of the appointment, a further vacancy occurs in that office.
- (5) Despite subsection (3), if the vacancy is for the office of Mayor, the vacancy must not be left unfilled but must be filled by appointment of 1 of the other members of the local authority as Mayor.
- (6) If any member is appointed or elected to fill a vacancy in the office of Mayor,—
- (a) the person is to be treated as having vacated the office of a member; and
 - (b) the vacancy in the office of a member is an extraordinary vacancy and this section and sections 118 to 120 apply.

[...]

118 Notice of intention to fill vacancy by appointment

- (1) If, under section 117(3)(a) [or section 117A], a local authority or [local board or] community board resolves that a vacancy will be filled by the appointment of a person by the local authority or [local board or] community board, it must immediately, unless the vacancy is for the office of Mayor, give public notice of—
- (a) the resolution; and
 - (b) the process or criteria by which the person named in the resolution was selected for appointment.
- (2) The local authority or [local board or] community board must, at a meeting held not later than the expiry of the prescribed period, by resolution confirm the appointment described in the resolution under subsection (1); and the person appointed is for all purposes to be treated as having been elected to fill the vacancy on the date on which that resolution is made.
- (3) For the purposes of subsection (2), the **expiry of the prescribed period** is 30 days after the date of notification of the resolution under subsection (1).
- (4) If for any reason the person specified in the resolution is unavailable or otherwise unable to be confirmed in the appointment, a further vacancy occurs in that office.

119 Notice of intention to leave vacancy unfilled

If, under section 117(3)(b), a local authority or [local board or] community board resolves not to fill a vacancy, it must immediately give public notice of its decision.

120 Election to fill extraordinary vacancy

- (1) If an extraordinary vacancy is to be filled by an election,—
- (a) the [chief executive] of the local authority concerned must give notice of the vacancy

to the electoral officer; and

(b) the election must be held not later than [89 days] after the date on which the electoral officer receives notice of the vacancy, and the provisions of this Act and any regulations made under this Act apply accordingly and with any necessary modifications.

(2) If an election is to be held under subsection (1), an election must be held at the same time to fill every extraordinary vacancy on the local authority or [local board or] community board—

(a) that is unfilled at the time the extraordinary vacancy occurred; or

(b) that is created after the extraordinary vacancy occurred and before the election commences.

(3) If the electoral officer receives notice of an extraordinary vacancy to which subsection (2)(b) refers before the commencement of voting at the election, the electoral officer may—

(a) countermand the notice previously given in respect of the election to fill the first-mentioned vacancy or vacancies; and

(b) give fresh notice appointing the polling day for an election to fill all the vacancies.

(4) All nominations received in respect of the countermanded election that are still in effect on the date of the giving of the fresh public notice continue in effect as if they had been made in respect of the election to be held on the substituted day appointed by the electoral officer.

(5) Any qualified person who was not nominated as a candidate at the countermanded election may be nominated as a candidate at the election to be held on the substituted date.