STATUTORY RULES OF NORTHERN IRELAND

2012 No. 422

LOCAL GOVERNMENT

Local Government (Indemnities for Members and Officers) Order (Northern Ireland) 2012

Made - - - -	*27th November 2012*
Coming into operation	*27th November 2012*

The Department of the Environment makes the following Order in exercise of the powers conferred by Article 33 of the Local Government (Northern Ireland) Order 2005 [F1].

In accordance with Article 33(2) of that Order, the Department of the Environment has consulted councils and such associations or bodies representative of councils, such associations or bodies representative of officers of councils and such other persons or bodies as it considered appropriate.

Annotations:

F1 S.I. 2005/1968 (NI 18)

Citation, commencement and interpretation

1.—(1) This Order may be cited as the Local Government (Indemnities for Members and Officers) Order (Northern Ireland) 2012 and shall come into operation on 27th November 2012.

[[F2](2) In this Order—

"Part 9 proceeding" means any investigation, report, adjudication or any other proceeding pursuant to Part 9 of the Local Government Act (Northern Ireland) 2014; and

"secure", in relation to any indemnity provided by means of insurance, includes arranging for, and paying for, that insurance.**]**

Annotations:

F2 Art. 1(2) substituted (1.11.2014) by The Local Government (Indemnities for Members and Officers) (Amendment) Order (Northern Ireland) 2014 (S.R. 2014/264) , arts. 1(1) ,

2(2)

Indemnities

2. A council may, in the cases mentioned in Article 4, provide indemnities to any of its members or officers.

Insurance

3. In place of, or in addition to, providing an indemnity under Article 2, a council may, in the cases mentioned in Article 4, provide an indemnity by securing the insurance of any of its members or officers.

Cases in which an indemnity may be provided

4. Subject to Article 5, an indemnity may be provided in relation to any action of, or failure to act by, the member or officer in question, which–

(a) is authorised by the council; or

(b) forms part of, or arises from, any functions conferred upon that member or officer, as a consequence of any function being exercised by that member or officer (whether or not when exercising that function it is done so in the capacity as a member or officer of the council)–

(i) at the request of, or with the approval of the council, or

(ii) for the purposes of the council.

Restrictions on indemnities

5.—(1) No indemnity may be provided under this Order in relation to any action by, or failure to act by, any member or officer which–

(a) constitutes a criminal offence; or

(b) is the result of fraud, or other deliberate wrongdoing or recklessness on the part of that member or officer.

(2) Notwithstanding paragraph (1)(a), an indemnity may be provided in relation to –

(a) subject to Article 7, the defence of any criminal proceedings brought against the member or officer; and

(b) any civil liability arising as a consequence of any action or failure to act which also constitutes a criminal offence.

(3) No indemnity may be provided under this Order in relation to the making by the member or officer indemnified of any claim in relation to an alleged defamation of that member or officer but may be provided in relation to the defence by that member or officer of any allegation of defamation made against the member of officer.

Matters that exceed the powers of the council, member or officer

6.—(1) Notwithstanding any limitation on the powers of a council which grants an indemnity, the council may provide an indemnity to the extent that the member or officer in question–

(a) believed that the action, or failure to act, in question was within the powers of the council; or

(b) where that action or failure comprises the issuing or authorisation of any document containing any statement as to the powers of the council, or any statement that certain steps have been taken or requirements fulfilled, believed that the contents of that statement were true,

and it was reasonable for that member or officer to hold that belief at the time when the member or officer acted or failed to act.

(2) An indemnity may be provided in relation to an act or omission which is subsequently found to be beyond the powers of the member or officer in question but only to the extent that the member or officer reasonably believed that the act or omission in question was within the powers of the member or officer at the time at which the member or officer acted.

Terms of indemnity or insurance

[[F3]**7.**—(1) Subject to paragraphs (2) and (3), the terms of any indemnity given (including any insurance secured) under this Order may be such as a council shall agree.

(2) Paragraph (3) applies where any indemnity given to any member or officer (including any insurance secured for that member or officer) has effect in relation to the defence of—

(a) any criminal proceedings; or

(b) any Part 9 proceedings.

(3) Where this paragraph applies, the indemnity shall be provided, and any insurance secured, on the terms that—

(a) in the case of criminal proceedings, if the member or officer in question is convicted of a criminal offence and that conviction is not overturned following any appeal; and

(b) in the case of Part 9 proceedings–

(i) if a finding is made in those proceedings that the member in question has failed to comply with the Northern Ireland Local Government Code of Conduct for Councillors and that finding is not overturned following any appeal, or

(ii) if the member admits that he has failed to comply with the Northern Ireland Local Government Code of Conduct for Councillors,

that member or officer shall reimburse the council or the insurer (as the case may be) for any sums expended by the council or insurer in relation to those proceedings pursuant to the indemnity or insurance.

(4) Where a member or officer is obliged to reimburse a council or insurer pursuant to the terms mentioned in paragraph (3), those sums shall be recoverable by the council or insurer (as the case may be) as a civil debt.**]**

Annotations:

F3 Art. 7
substituted (1.11.2014) by
The Local Government (Indemnities for Members and Officers) (Amendment) Order (Northern Ireland) 2014 (S.R. 2014/264)
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arts. 1(1)
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2(3)