

Inqueli - for filing with
earlier papers.

Mandy McGuinness.

R74/98



VERY URGENT

Note:

I say Paul Forecki yesterday
advised me of his position.

M. Forecki 2/6

To: NDPB and Public Bodies Contacts

ASSEMBLY ELECTIONS : DISQUALIFICATION

Note
Ombudsman's Office (John Macdonald)
advised of position 2/6.

I attach a note from Central Secretariat concerning the disqualification provisions in the Northern Ireland (Elections) Act 1998.

Your attention is drawn to paragraph 2 which states that the holder of an office listed in the schedule may have to resign that office before declaring candidature for election to the new Assembly.

The offices affected include:-

- . the Lands Tribunal for Northern Ireland;
- * . the Northern Ireland Economic Council; *(call members)*
- . Chairman of the Chief Executives' Forum in NI;
- . Civil Service Commissioner for NI;
- . Commissioner for Public Appointments for NI;
- . Chairman of the NI Civil Service Appeal Board;
- . Chairman of the NI Community Relations Council;
- . Comptroller and Audit General for NI;
- . Lay Observer appointed under Article 42 of the Solicitors (NI) Order 1976;
- . Member of the staff of the NI Audit Office;
- . NI Commissioner for Complaints; and
- . NI Parliamentary Commissioner for Administration.

Would you please contact those concerned within your responsibility to advise them of the need to seek urgent legal advice if they have any doubts about their position.

Please ring me on extn. 21220 if you have any queries.

N Irwin

2 June 1998



CENTRAL SECRETARIAT

Room 150, Parliament Buildings, Stormont, Belfast BT4 3SS
Tel 01232 528158 Fax 01232 528135

FROM: LINDA DEVLIN

cc list as below

DATE: 1 JUNE 1998

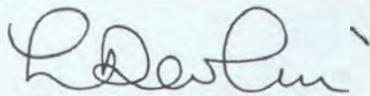
VERY URGENT!!!!

DEPARTMENTAL CO-ORDINATORS

ASSEMBLY ELECTIONS : DISQUALIFICATION

1. I attach a copy of a note we have just received from REL in London which deals with disqualification provisions in the Northern Ireland (Elections) Act 1998 and members of public bodies.
2. REL advise that if anyone holding an office listed in the schedules to the House of Commons Disqualification Act 1975 were to be elected to the new Northern Ireland Assembly, his/her election would be void and the shadow Assembly will have no power to disregard disqualification. REL further advise that the key date for disqualification would appear to be the date of nomination, not the date of election. In other words, the holder of an office listed in the attached schedules may have to resign that office before declaring candidature for election to the new Assembly.
3. The closing date for nominations is **Wednesday 3 June at 4pm**. In order to ensure that those who may be affected are aware of the situation, Departments should examine the attached schedules to identify offices within their areas of responsibility which are subject to disqualification and **immediately** contact those concerned to advise them of the need to seek urgent legal advice if they have any doubts about their position. The schedules attached have been provided by Cabinet Office Machinery of Government Division, but with a health warning that they may not be absolutely up to date and should not be treated as definitive.

4. If you have any queries on this matter, please contact either myself on 28158 or Stephen Webb in REL on 0171 210 0283.



Linda Devlin

cc: PS/Secretary of State (B&L)
PS/Mr Murphy (B&L)
PS/Mr Ingram (B&L)
PS/Mr Worthington (L, DENI, DHSS)
PS/Lord Dubs (L, DOE, DANI)
PS/Mr Pilling (B&L)
PS/Mr Semple
Mr Jeffrey
NI Permanent Secretaries
Mr Watkins
Mr Stephens
Mr McCusker
Mr Bell
Mr Kelly (B&L)
Mr Beeton
Mr Hill
Mr Brooker
Mr Whysall
Mr Maccabe
Mr Webb
(all without attachments)

GUIDANCE ON DISQUALIFICATION

Departments may receive enquiries from members of various public bodies about disqualification provisions for the forthcoming Assembly elections.

The position on disqualification is set out in sections 4 and 5 of the Northern Ireland (Elections) Act. Disqualification basically mirrors that for the House of Commons. Attached to this notice is a copy of the House of Commons Disqualification Act 1975, including schedules naming the public bodies all of whose members are disqualified (part 2 of schedule 1) or some of whose members are disqualified (part 3 of schedule 1).

It should however be noted that

- peers are not disqualified (other than Lords of Appeal in Ordinary)
- members of the Irish Senate are not disqualified
- Lord-Lieutenants are disqualified for membership of the Assembly for a constituency comprising the whole or part of the county or county borough
- EU citizens are not disqualified

Section 4 makes it clear that if a person disqualified under the Act is returned as a member of the Assembly, his election is void. The closing date for nominations is Wednesday 3 June at 16.00. Departments should therefore advise candidates to ensure any potential disqualification is removed by then.

The shadow Assembly will not have the power to disregard disqualification. The Northern Ireland Assembly (Elections) Order also provides for election petitions, through which members' election can be challenged, including on the grounds that the member was disqualified at the relevant time.

Disqualification is a complex legal area, and candidates in any doubt at all about their position should be advised to seek urgent legal advice.