

EDUCATION BILL

EXPLANATORY AND FINANCIAL MEMORANDUM

INTRODUCTION

1. This Explanatory and Financial memorandum has been prepared by the Department of Education (DE) in order to assist the reader of the Bill and to help inform debate on it. It does not form part of the Bill and has not been endorsed by the Assembly.
2. The Memorandum needs to be read in conjunction with the Bill. It is not, and is not meant to be, a comprehensive description of the Bill. So where a clause or part of a clause or schedule does not seem to require an explanation or comment, none is given.

BACKGROUND AND POLICY OBJECTIVES

3. The Bill has two purposes. It is intended, firstly, to provide for the establishment of the Education Authority. The prompt for this is local government reform. From 1 April 2015, the 26 council model of local government will be replaced by a model of 11 councils. However, the Education and Libraries (NI) Order 1986, provides for the territorial responsibilities and governance arrangements of the five current Education and Library Boards (ELBs) in terms derived from the 26-council model. Legislative change is required, therefore, to ensure education administration is compatible with local government reform. Primary legislation to establish a single body, the Education Authority, is considered to be the most efficient and effective way of providing administrative arrangements for education which are compatible with new local government structures.
4. The Education Authority will replace the five ELBs and their Staff Commission. It will have the responsibilities of an ELB as already set out in the Education Orders, including an ELB's employer responsibilities. The Bill also places a duty on the Authority to encourage, facilitate and promote shared education and the community use of school premises and also to establish standing committees to encourage, facilitate and promote shared education and the community use of school premises.
5. The second purpose of the Bill is to enable the Department to fund the establishment and operation of a new body that will provide representation and advocacy for schools in the controlled sector.

CONSULTATION

6. The proposal to amalgamate the five ELBs into a single Education Authority, has similar aspects to the proposal to establish the Education Skills Authority (ESA). This

was the subject of a number of consultations on the regionalisation of education administration which is the main characteristic of the proposal to establish the Education Authority.

OPTIONS CONSIDERED

7. A number of alternative structural reforms to the creation of the Education Authority have been considered. These included:
 - (i) the reconfiguration of the current five ELB boundaries to achieve alignment with the 11 new councils that come into full operation on 1 April, 2015. This reconfiguration would be in accordance with the power that DE has to amend the territories of these ELBs (Article 3 (3) of the Education and Libraries (NI) Order 1986). Hence, such a change would require secondary legislation and the implementation of a programme to transfer assets and staff across ELBs.
 - (ii) a reconfiguration that achieved alignment with the new local government structures while reducing the number of ELBs. Such a change would require primary legislation and the implementation of a programme of transfer.

OVERVIEW

8. The Bill has 7 clauses and 4 schedules. A commentary on each of the clauses and schedules follows below. However, where a clause or part of a clause or schedule does not seem to require an explanation or comment, none is given.

COMMENTARY ON CLAUSES

Clause 1: The Education Authority.

This clause provides for the establishment of the Education Authority and applies Schedule 1, which puts in place arrangements for membership of the Authority and also provides for the financing of the Authority and the governance and accountability arrangements.

Clause 2: Functions of the Authority.

The functions of the Authority are those that would have been carried out by the ELBs under the terms of the Education Orders prior to this legislation. There will be additional duties on the Authority to encourage, facilitate and promote shared education and the community use of school premises.

Clause 3: Dissolution of the Education and Library Boards and Staff Commission.

This clause formally dissolves the ELBs and their Staff Commission and (in conjunction with Schedule 2) provides for the transfer to the new Education Authority of all their assets, liabilities and staff.

Clause 4: Funding of sectoral bodies

This clause allows the Department to pay grants to a body which it recognises as representing the interests of controlled schools, or of grant-aided schools of any other particular description.

Clause 5: Amendments, repeals and other consequential provision

This clause introduces schedules 3 and 4, which contain minor and consequential amendments and repeals, respectively. It also provides for the Department by order to make such supplementary, incidental, consequential or transitional provision as may be required in connection with the purposes of the Bill.

Clause 6: Interpretation

This clause contains definitions of terms used in the legislation.

Clause 7: Short title and commencement

This clause contains the short title of the legislation and provisions for the commencement of the legislation.

SCHEDULES

Schedule 1: The Education Authority

This schedule contains provisions in relation to the status, membership, tenure of office of members, remuneration of allowances of members and employees and proceedings of the Education Authority. The schedule also makes provision in relation to finance, accounts and reporting and returns.

Schedule 2: Transfer of assets, liabilities and staff of dissolved bodies

This schedule makes provision for the transfer of assets, liabilities and staff of ELBs and the Staff Commission. Staff will be afforded protection of their terms and conditions of employment under the Transfer of Undertakings (Protection of Employment) Regulations 2006, and protection of their rights to accrue pension benefits.

Schedule 3: Minor and consequential amendments

This Schedule makes provision for minor and consequential amendments.

Schedule 4: Repeals

This Schedule makes provision for various repeals of existing legislation.

FINANCIAL EFFECTS OF THE BILL

9. The establishment of the Education Authority in the place of the five ELBs and their Staff Commission will be a rationalisation of these structures. It is planned to provide for savings in staffing costs, through the elimination of duplication, particularly in

management. It is anticipated that savings will be comparable in scale to those expected from ESA. The Full Business Case for ESA, approved by the Department of Finance and Personnel in June 2013, considered that ESA would provide for significant savings (£185m over its first 10 years) when compared with the costs of maintaining existing structures. Much of these savings have already been realised in anticipation of ESA's establishment.

HUMAN RIGHTS ISSUES

10. The Bill is in compliance with the Convention Rights.

EQUALITY IMPACT ASSESSMENT

11. An Equality screening was undertaken on the proposal to legislate for the establishment of the Education Authority. This concluded that that it was not necessary to conduct an Equality Impact Assessment as no equality issues were identified.
12. Establishing the Education Authority will involve a programme of change to service delivery that will result in greater standardisation and consistency in education administration and much less scope for variation. This will make a positive contribution to ensuring equality for all those directly or indirectly impacted by the delivery of education services.
13. It is recognised that this will programme of change will span a number of years. As this programme is rolled out equality impact assessments may be required at the appropriate time.

SUMMARY OF THE REGULATORY IMPACT ASSESSMENT

14. The effects of this Bill have been assessed and it is concluded that the provisions will not result in savings for, or costs to, businesses, charities, social economy exercises or voluntary bodies.

LEGISLATIVE COMPETENCE

15. The Minister of Education has made the following statement under section 9 of the Northern Ireland Act 1998:

“In my view the Education Bill would be within the legislative competence of the Northern Ireland Assembly.”