

Assembly Members (Remuneration Board) Bill

EXPLANATORY AND FINANCIAL MEMORANDUM

INTRODUCTION

1. This Explanatory and Financial Memorandum has been prepared by the [Northern Ireland Assembly Commission](#) (“the Commission”) in order to assist the reader of the Bill and to help inform the debate on it. It does not form part of the Bill and has not been endorsed by the Assembly.
2. The Memorandum should be read in conjunction with the Bill. It is not, and is not meant to be, a comprehensive description of the Bill, and where a clause or part of a clause does not seem to require any explanation or comment, none is given.

BACKGROUND AND POLICY OBJECTIVES

3. The Commission is a body corporate established by section 40 of the [Northern Ireland Act 1998](#) (“the 1998 Act”) to perform the functions conferred on the Commission by virtue of any enactment; and any functions conferred on the Commission by resolution of the Assembly. Section 40(4) requires the Commission to provide the Assembly, or ensure that the Assembly is provided, with the property, staff and services required for the Assembly’s purposes.
4. Section 47 of the 1998 Act requires the Assembly to pay salaries to Members, permits the Assembly to pay allowances to Members, and provides that the function of determining the salaries or allowances to be paid can be delegated to a body established by Act of the Assembly or conferred on the Commission by a resolution of the Assembly. Section 48 permits the Assembly to provide for the payment of pensions to former Members and makes similar provision for delegation.
5. The [Assembly Members \(Independent Financial Review and Standards\) Act \(Northern Ireland\) 2011](#) (“the 2011 Act”) established the [Independent Financial Review Panel](#) (“the IFRP”) and conferred on it the power to make determinations in relation to Members’ salaries, allowances and pensions.

CONSULTATION

6. Within the framework detailed above, the rates of salaries and allowances, and pensions, payable to Members and former Members were fixed by determinations of the IFRP, the most recent of which were:

- the [Assembly Members \(Salaries and Expenses\) Determination \(Northern Ireland\) 2016](#) ('the 2016 Determination').
- the [Assembly Members \(Pensions\) Determination \(Northern Ireland\) 2016](#).

7. The Commission had become aware of a number of difficulties¹ that arose as a result of the provision made by the IFRP in respect of allowances payable to Members (allowances which enable Members to, for example, employ staff, rent office space for constituency purposes, buy office equipment and pay utility bills) and, following initial consultation with Commission Members during the summer of 2016, a comprehensive consultation document entitled "Independent Financial Review Panel: Reform" was issued to Commission Members on 28 October 2016, requesting an outline of their Party's views on the matters by 13 January 2017.

8. This work was overtaken by political events which meant that the Assembly did not resume normal business after the March 2017 election until 11 January 2020. The Commission took the view that it was inappropriate for it to prioritise issues related to Members' salaries and allowances when the Assembly was not meeting in the period between 2017 and early 2020. It was anticipated that this work would recommence once normal Assembly business resumed and a Commission for the 2017-2022 Assembly was appointed.

9. In order to enable officials to undertake some preparatory work in advance of a potential return to normal Assembly business, at its meeting on 5 September 2019, the Commission asked officials to issue a fresh consultation document in order to seek the views of the Parties represented on the Commission and identify areas of agreement for possible reform of the IFRP.

10. A further consultation document was issued to Commission Members on 21 November 2019, requesting written responses from their Parties on the key issues outlined, by 17 January 2020. This deadline was extended to 7 February 2020 following appointment of the new Commission.

¹ Further detail on the types of difficulties regarding allowances was provided by members in the course of debate on [Commission's motion](#) on 30 June 2020.

OPTIONS CONSIDERED

11. Following consultation, the Commission considered a number of options in relation to the arrangements for determining Members' pay, allowances and pensions.

Option 1- No Change.

Option 2- Amend the disqualification provisions, to enable the appointment of former Members to the IFRP.

Option 3- Adopt a model based on the Independent Parliamentary Standards Authority.

Option 4- Return to the position where the Assembly/Commission determines Members' salaries, allowances and pensions.

Option 5- Continue to delegate the role of determining Members' salaries and pensions to an independent body, but transfer to the Commission the role of determining Members' allowances.

Option 6- Continue to delegate the role of determining Members' salaries, pensions and the majority of expenses/allowances to an independent body but amend the 2011 Act to make specific legislative provision regarding the determination of Members' staff costs.

Option 7- Continue to delegate the role of determining Members' salaries, pensions and expenses/ allowances to an independent body but make specific legislative provision so that body would only set upper limits to each area of expenses/allowances i.e. an overall budget, rather than prescribe the exact detail.

12. In June 2020 the Commission confirmed its policy proposals, namely:

- that the function of determining the allowances (office rent, staff salaries etc) to be paid to Members should be conferred on the Commission;
- that the function of determining the salaries and pensions to be paid to Members should remain with an independent body;
- that certain other changes should be made to the arrangements in the 2011 Act; such as permitting temporary appointments to the independent body in the event of vacancies in the independent body.

13. The first element of this policy was given effect on 30 June 2020 when the Assembly conferred on the Commission power to make determinations on Members'

allowances. The Commission subsequently made the [Assembly Members \(Salaries and Expenses\) \(Amendment\) Determination \(Northern Ireland\) 2020](#) which came into operation on 27 August 2020. The Bill will give effect to the second and third elements of this policy.

OVERVIEW

14. The Bill renames the IFRP as the Remuneration Board (“the Board”) and removes its power and responsibility for determining the allowances payable to Members. The Bill inserts provision for temporary appointments to the Board and removes the bar on former Members being members of the Board, to allow up to one former Member to be on the Board. The Bill also makes provision in relation to the timing of determinations, their publication in draft, and consultation on draft determinations and other matters.

COMMENTARY ON CLAUSES

Clause 1 renames the IFRP as the Board and makes the necessary consequential amendments to enactments.

Clause 2 amends the 2011 Act to remove from the IFRP responsibility for making determinations about allowances payable to Members; the Board will continue to be responsible for salaries and pensions. In consequence, the clause changes the Board’s objectives so as to remove reference to the provision of adequate resources to Members for the exercise of their functions.

Clause 3 introduces a new provision into the 2011 Act to permit the appointment of a temporary Chair of the Board, and temporary members of the Board, pending the appointment of replacements. Subsection (5) and (6) provide that persons who have previously served as Chair or member for two five-year periods (and who would thus be disqualified from a further substantive appointment) are also disqualified from appointment from temporary appointments, but makes clear that previous service as a temporary Chair or member does not disqualify a person from a substantive appointment as Chair or member.

Clause 4 amends the 2011 Act to remove former membership of the Assembly as a ground for disqualification from membership of the Board, and to provide that no more than one former Assembly Member can be a member of the Board at any one time.

Clause 5 deals with the manner in which the Board makes determinations in respect of salaries and pensions. Subsection (2) requires determinations to be made at least 6 months in advance of Assembly elections. Subsection (3) requires determinations to be published in draft and made the subject of consultation. Subsection (4) requires consultation before the Board issues determinations more than once in respect of an Assembly, or otherwise than in accordance with the timing rules set out in subsection (2).

Clause 6 makes provision for continuity of the law, so that determinations made under the law before amendment by the Bill will continue to have effect until superseded, and so that references to the IFRP by its present name will continue to have effect.

Clause 7 defines terms.

Clause 8 provides for the Bill to come into force on the day of Royal Assent.

Clause 9 provides the short title of the Bill.

FINANCIAL EFFECTS OF THE BILL

15. The Bill makes limited amendments to the 2011 Act and has no additional financial effect.

HUMAN RIGHTS ISSUES

16. The Bill is compatible with the Convention Rights.

EQUALITY IMPACT

17. The policy to which the Bill gives effect has been screened and it is not anticipated that the Bill will have an adverse impact on any group.

SUMMARY OF THE REGULATORY IMPACT ASSESSMENT

18. The Bill makes limited amendments to the 2011 Act and no regulatory impact assessment was carried out.

LEGISLATIVE COMPETENCE

19. At Introduction, Mr J Blair MLA, Mr K Buchanan MLA, Mr R Butler MLA, Mrs D Kelly MLA and Mr J O'Dowd MLA had made the following statement on behalf of the Assembly Commission under Standing Order 30:

“In our view the Assembly Members (Remuneration Board) Bill would be within the legislative competence of the Northern Ireland Assembly.”

SECRETARY OF STATE CONSENT

20. The consent of the Secretary of State is not required.