

## **ASSEMBLY MEMBERS (INDEPENDENT REMUNERATION BOARD) BILL**

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### **EXPLANATORY AND FINANCIAL MEMORANDUM**

#### **INTRODUCTION**

1. This Explanatory and Financial Memorandum (the Memorandum) has been prepared by the Northern Ireland Assembly Commission (the Commission) in order to assist the reader of the Assembly Members (Independent Remuneration Board) Bill (the Bill) and to help inform the debate on the Bill. The Memorandum 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 intended to be, a comprehensive description of the Bill. 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, gratuities or allowances to former Members and former office holders 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 and allowances and the pensions, gratuities and allowances of former Members and former office holders.

6. Current salaries payable to Members are fixed by the Assembly Members (Salaries and Expenses) Determination (Northern Ireland) 2016 as amended. Pensions payable to former office-holders and former Members are fixed by the Assembly Members (Pensions) Determination (Northern Ireland) 2016. These determinations were made by the IFRP.
7. On 30 June 2020, the Assembly conferred on the Commission the function of determining the allowances payable to Members. Current allowances payable to Members are fixed by the Assembly Members (Office and Staffing Costs and Allowances) Determination (Northern Ireland) 2025, made by the Commission.

## **CONSULTATION**

8. The initial consultation of Commission Members on the possible reform of the IFRP took place in the summer of 2016, after the Commission became aware of a number of difficulties<sup>1</sup> that had arisen as a result of the provision made by the IFRP in respect of allowances payable to Members. A more comprehensive consultation document entitled 'Independent Financial Review Panel: Reform Consultation' was then issued to Commission Members on 28 October 2016, requesting an outline of their Party's views on the matters by 13 January 2017.
9. No further action was taken by the Commission following this consultation in 2016/2017, as the Assembly did not resume normal business for a time following the March 2017 election.
10. A further consultation document was issued to Commission Members on 21 November 2019, in order to seek the views of the Parties and identify possible areas of agreement in relation to the reform of the IFRP.
11. Following this consultation, the Commission considered a number of options in relation to the arrangements for determining Members' pay, allowances and pensions.

## **OPTIONS CONSIDERED**

12. **Option 1-** No Change.

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<sup>1</sup> Further detail on the types of difficulties regarding allowances was provided by Members in the course of debate on the Commission's motion on 30 June 2020.

13. **Option 2-** Amend the disqualification provisions, to enable the appointment of former Members to the IFRP.
14. **Option 3-** Adopt a model based on the Independent Parliamentary Standards Authority.
15. **Option 4-** Return to the position where the Assembly/Commission determines Members' salaries, allowances and pensions.
16. **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.
17. **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.
18. **Option 7-** Continue to delegate the role of determining Members' salaries, pensions and allowances to an independent body but make legislative provision under which the independent body would only set upper limits to each area of allowances i.e. an overall budget, rather than prescribe the exact detail.
19. In March 2020, the Commission agreed that:
  - An independent body would continue to fix the salaries and pensions of Members, but its power to fix allowances would be removed.
  - The allowances paid to Members (which allow them, for example, to employ staff, rent office space for constituency purposes, buy office equipment and pay utility bills) would be fixed by the Commission.
  - A paper on the legislative reform (i.e. amendment of the 2011 Act) necessary to give effect to these changes should be brought to the Commission.
20. The Commission met again in May 2020 and considered a range of potential amendments to the arrangements set out in the 2011 Act. Commission Members subsequently consulted the Parties and responded indicating their policy preferences.
21. 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.
  - The function of determining the salaries and pensions to be paid to Members should remain with an independent body.
  - The IFRP should be renamed as the Remuneration Board.
  - The disqualification provision in the 2011 Act, which prevents former Members from being appointed to the independent body should be removed.
  - The number of former Members on the independent body should be no more than one at any one time.
  - 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, introducing new consultation requirements and changing the timing of the determination in relation to an election.
22. 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.
23. On 14 December 2020, the Commission introduced the Assembly Members (Remuneration Board) Bill to give effect to the second and third elements of the agreed policy proposals.
24. The Second Stage of this Bill was indicatively scheduled for January 2021, but did not proceed.
25. The Assembly did not conduct normal business between May 2022 and February 2024, and no further action was taken on the issue.
26. Following the resumption of normal Assembly business on 3 February 2024, the Commission met on 19 March 2024 and confirmed that it was content with the policy position of the previous two Commissions, subject to the inclusion of a clause which required the independent body to have regard to the salaries of Members of certain other legislatures when making a determination in relation to the salary of Members.

27. Some other minor amendments were made to the text agreed in 2020. For example, additional provision was made regarding continuity of the law.
28. On 15 January 2025, the Commission agreed that the Bill should be introduced to the Assembly.

## **SUMMARY OF THE BILL**

29. The Bill renames the IFRP as the Independent Remuneration Board (the Board) and removes its power to determine the allowances payable to Members and former Members. The Bill inserts provision for temporary appointments to the Board and removes the bar on former Members being members of the Board. The Bill requires the Board to have regard to the salaries payable to Members of certain other legislatures. The Bill also makes provision in relation to the timing of determinations, their publication in draft, consultation on draft determinations and other matters.

## **COMMENTARY ON CLAUSES**

### **Clause 1: Independent Financial Review Panel renamed as Independent Remuneration Board**

Amends the 2011 Act to rename the IFRP as the Board.

### **Clause 2: Removal of function of determining allowances**

Amends the 2011 Act to remove the Board's power to make determinations about allowances payable to Members and former 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: Consideration of salaries in other legislatures**

Amends the 2011 Act by introducing a new provision requiring the Board to have regard to the salaries payable to Members of certain other legislatures. These legislatures are: the House of Commons, the Scottish Parliament, Senedd Cymru (the Welsh Parliament), Dáil Éireann (the House of Representatives of Ireland) and Seanad Éireann (the Senate of Ireland).

### **Clause 4: Temporary appointments**

Inserts 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. This includes provision to ensure that not more than one former Member of the Assembly is a member of Board at any time.

### **Clause 5: Membership**

Amends the 2011 Act to remove former membership of the Assembly as a ground for disqualification from membership of the Board.

### **Clause 6: Determinations**

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 before the date of the poll for the 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 7: Minor and consequential amendments**

Makes further minor changes to the 2011 Act and other legislation. Subsection (1) corrects an out-of-date gendered pronoun and, in accordance with good legislative practice, replaces it with a non-gendered one. Subsection (2) updates the 2011 Act consequent upon changes made by other legislation. Previously section 12(3) of the 2011 Act prevented a Member being paid a salary as a Member of either House of Parliament. Double-jobbing as a Member and an MP is now prohibited under section 3 of the Northern Ireland (Miscellaneous Provisions) Act 2014. It is therefore unnecessary to prohibit payment of a salary as a Member and MP, so paragraph (2) removes this salary prohibition. It remains possible that a Member could be paid a salary as a Member of the House of Lords, so this aspect of the prohibition remains. This is a minor amendment to reflect this existing change to the law. Subsection (3) makes the necessary changes to legislation consequent upon the name of the IFRP becoming the Board.

### **Clause 8: Continuity of the law**

Makes provision for continuity of the law, so that the existing determinations continue to have effect until expired, revoked or superseded. The clause also ensures that the references to the IFRP by its present name will continue to have effect.

## **FINANCIAL EFFECTS OF THE BILL**

30. Financial costs in relation to the initial establishment of the Board have been estimated at £20,000, based on the cost of a fair and open process to recruit each of the three Board members and the costs associated with providing the Board with sufficient office resources to facilitate its initial work. The recurring costs of the Board are unlikely to follow a predictable annual pattern.
31. Pursuant to the provisions of clause 6 on the frequency and timing of making Determinations, it is likely that the Board will undertake the majority of its work in the last 24 months of a mandate, publishing Determinations only once every five

years. Over that two-year period, it is estimated that the Board could incur costs of approximately £115,000, with more modest costs of approximately £20,000 in each of the intervening years.

## **HUMAN RIGHTS ISSUES**

32. The Bill is compatible with the European Convention on Human Rights.

## **EQUALITY IMPACT**

33. The Bill will have no effect on this area.

## **SUMMARY OF THE REGULATORY IMPACT ASSESSMENT**

34. The Bill will have no effect on this area.

## **LEGISLATIVE COMPETENCE**

35. Mr A Allen MLA, Mr T Clarke MLA, Mrs S Ennis MLA, Miss N McAllister MLA and Mr C McGrath MLA had made the following statement on behalf of the Assembly Commission under Standing Order 30:

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

## **SECRETARY OF STATE CONSENT**

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