

*This document relates to the Bank of England (Appointment of Governor) Bill  
as introduced in the House of Commons on 20 June 2012 [Bill 8]*

# **BANK OF ENGLAND (APPOINTMENT OF GOVERNOR) BILL**

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## **EXPLANATORY NOTES**

### **INTRODUCTION**

1. These Explanatory Notes relate to the Bank of England (Appointment of Governor) Bill as introduced in the House of Commons on 20 June 2012. They have been prepared by John McDonnell, the Member in charge of the Bill, in order to assist the reader of the Bill and to help inform debate on it. They do not form part of the Bill and have not been endorsed by Parliament.

2. The Notes should be read in conjunction with the Bill. They are not, and are not meant to be, a comprehensive description of the Bill. So where a clause, or a part of a clause, does not seem to require any explanation or comment, none is given.

### **SUMMARY AND BACKGROUND**

3. The Bank of England Act 1998 (“1998 Act”) makes provision about the constitution and management of the Bank of England. The Governor, Deputy Governor and directors form the Bank’s Court of Directors. By section 1(2) of the 1998 Act, these office-holders are appointed by Her Majesty. Schedule 1 to the 1998 Act makes further provision about the Court. Paragraph 8 enables the Bank, with the consent of the Chancellor of the Exchequer, to remove a member of the Court from office on grounds of absence, insolvency or unfitness.

4. The Governor is a key figure in UK financial affairs, playing a pre-eminent role in policy and operational matters within the Bank and wielding enormous influence in the wider economy.

5. Appointment of members to the Office of Budget Responsibility (OBR) is governed by Schedule 1 to the Budget Responsibility and National Audit Act 2011. By paragraph 1(1)(a) and (b), appointment of the chair and certain other members is by the Chancellor of the Exchequer with the consent of the Treasury Committee. By paragraph 6(2), a member of the OBR may be removed on certain grounds including absence, insolvency and unfitness. By paragraph 6(3), the Treasury Committee's consent is required for removal of a person appointed under paragraph 1(1)(a) or (b).

6. On 19 October 2011 the Treasury Select Committee of the House of Commons published its Twenty-First Report, "Accountability of the Bank of England (HC 874)". The report contained a number of recommendations about the Bank and, in particular, about the office of Governor. At paragraph 148 of its report, the Committee, after referring to its existing statutory role in approving the appointment or dismissal of the chair of the OBR, stated:

"The Governor of the Bank's independence from Government is crucial for his or her credibility. Given the vast responsibilities of the Governor, the case for this Committee to have a power of veto over the appointment or dismissal of the Governor is even stronger than it is with respect to the OBR. We therefore recommend that, in order to safeguard his or her independence, the Treasury Committee is given a statutory power of veto over the appointment and dismissal of the Governor of the Bank of England."

7. The Bill gives effect to this recommendation by amending section 1(2) of, and paragraph 8 of Schedule 1 to, the 1998 Act. The Treasury Committee's approval would be required for the appointment of the Governor by Her Majesty and for the removal of the Governor by the Bank. At the end of these Explanatory Notes is the text of those provisions as they would read if the Bill were enacted as introduced.

## **COMMENTARY ON CLAUSES**

### **Clause 1: Requirement of consent for appointment and removal of Governor**

8. Subsection (1) substitutes new text in 1998 Act section 1(2) requiring the Treasury Committee's consent to the appointment of the Governor.

9. Subsection (2) inserts two new subsections after section 1(4) to cover the eventuality of the name of the Treasury Committee changing, or its functions passing to another Committee of the House. Equivalent provision is found in paragraph 29 of Schedule 1 to the Budget Responsibility and National Audit Act 2011.

10. Subsection (3) inserts new text in paragraph 8 of Schedule 1 to the 1998 Act, requiring the Treasury Committee's consent to removal of the Governor under that paragraph.

**Clause 2: Short title, commencement and extant**

11. Clause 2(1) provides for the short title. Clause 2(2) provides for the Bill's commencement (see below). Clause 2(3) provides for the Bill's extent.

**TERRITORIAL EXTENT**

12. 1998 Act section 44(1) provides that the Act extends to Northern Ireland. Clause 2(3) of the Bill replicates that.

**EUROPEAN CONVENTION ON HUMAN RIGHTS**

13. This is not a Government Bill so does not require a statement under section 19(1) of the Human Rights Act 1998. However, in the view of the Member in charge, the provisions of the Bank of England (Appointment of Governor) Bill are compatible with the Convention rights.

**COMMENCEMENT**

14. Clause 2(2) provides for commencement of the Bill on Royal Assent.

*Proposed text of 1998 Act section 1 as amended by the Bill:*

**“1 Court of directors**

- (1) There shall continue to be a court of directors of the Bank.
- (2) The court shall consist of a Governor, 2 Deputy Governors and directors of the Bank, who shall be appointed—
  - (a) in the case of the Governor, by Her Majesty with the consent of the Treasury Committee of the House of Commons, and
  - (b) in all other cases, by Her Majesty.
- (2A) The number of directors must not exceed 9.
- (3) On the day on which this Act comes into force, all persons who are, immediately before that day, holding office as director of the Bank shall vacate their office.
- (4) Schedule 1 shall have effect with respect to the court.
- (5) The references in this section and in Schedule 1 to the Treasury Committee of the House of Commons—
  - (a) if the name of that Committee is changed, are to be treated as references to that

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- Committee by its new name, and
- (b) if the functions of that Committee (or substantially corresponding functions) become functions of a different Committee of the House of Commons, are to be treated as references to the Committee by which those functions are exercisable.
- (6) Any question arising under subsection (5) is to be determined by the Speaker of the House of Commons.”

*Proposed text of 1998 Act Schedule 1 paragraph 8 as amended by the Bill:*

- “8. The Bank may, with the consent of the Chancellor of the Exchequer and, in the case of the Governor, the consent of the Treasury Committee of the House of Commons, remove a person from office as Governor, Deputy Governor or director of the Bank if it is satisfied—
- (a) that he has been absent from meetings of the court for more than 3 months without the consent of the court,
  - (b) that he has become bankrupt, that his estate has been sequestrated or that he has made an arrangement with or granted a trust deed for his creditors, or
  - (c) that he is unable or unfit to discharge his functions as a member.”

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*Ordered, by The House of Commons,  
to be Printed, 2 July 2012.*

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email: [psi@nationalarchives.gsi.gov.uk](mailto:psi@nationalarchives.gsi.gov.uk)*

PUBLISHED BY AUTHORITY OF THE HOUSE OF COMMONS  
LONDON — THE STATIONERY OFFICE LIMITED  
Printed in the United Kingdom by The Stationery Office Limited  
£x.xx