

*These notes refer to the Northern Ireland Assembly Members Bill [HL]
as introduced in the House of Lords on 19th November 2009 [HL Bill 4]*

NORTHERN IRELAND ASSEMBLY MEMBERS BILL [HL]

EXPLANATORY NOTES

INTRODUCTION

1. These Explanatory Notes relate to the Northern Ireland Assembly Members Bill [HL] as introduced in the House of Lords on 19th November 2009. They have been prepared by the Northern Ireland Office 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 need to 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 part of a clause does not seem to require any explanation or comment, none is given.

SUMMARY AND BACKGROUND

3. At present, the Northern Ireland Assembly is prevented from delegating its powers in relation to the setting of salaries and allowances for members of the Assembly by section 47(7) of the Northern Ireland Act 1998, which states explicitly that the Assembly may not delegate such functions. No such restriction exists in relation to the Scottish Parliament or National Assembly for Wales.

4. The Bill removes this restriction and enables the Northern Ireland Assembly, should it decide to do so, to confer the functions of setting salaries and allowances for members of the Assembly on an independent body of its choosing.

5. The Bill does not place a duty on the Assembly to change its system of determining salaries and allowances and it leaves it to the Assembly to decide what type of system to adopt.

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OVERVIEW OF THE STRUCTURE OF THE BILL

6. The Bill has 3 clauses and no Schedules.
7. *Clause 1* amends section 47 of the Northern Ireland Act 1998 to enable the Northern Ireland Assembly to confer the function of determining salaries and allowances for members of the Assembly on a body of its choosing.
8. *Clause 2* makes consequential amendments to section 48 of the Northern Ireland Act 1998.
9. *Clause 3* deals with the short title and commencement.

TERRITORIAL EXTENT AND APPLICATION

10. The application of the Bill is limited to Northern Ireland.
11. The Bill does not contain any provisions falling within the terms of the Sewel Convention. Because the Sewel Convention provides that Westminster will not normally legislate with regard to devolved matters in Scotland without the consent of the Scottish Parliament, if there are amendments relating to such matters which trigger the Convention, the consent of the Scottish Parliament will be sought for them.

COMMENTARY ON CLAUSES

Clause 1: Salaries and allowances

12. *Clause 1* amends section 47 of the Northern Ireland Act 1998 (“the 1998 Act”). Section 47(1) of the 1998 Act provides that the Assembly shall pay such salaries “as the Assembly may from time to time determine”. Subsection (2) makes similar provision (although with a permissive rather than a directory provision) in relation to members’ allowances. Subsection (6) provides that a determination “may provide for salaries or allowances to change from time to time by reference to other amounts or specified formulas”. Subsection (7) provides that “the Assembly may not delegate the function of making a determination under this section”.
13. *Subsection (2)* of *clause 1* amends subsection (1) and (2) of section 47 so that it is not necessarily the Assembly that determines salaries and allowances. *Subsection (3)* inserts new subsections (2A) and (2B). New subsection (2A) states that the Assembly may determine the salaries or allowances payable to members or the Assembly may make provision for them to be determined by another person. New subsection (2B) makes clear that different salaries may be set for different jobs. *Subsection (12)* inserts a new subsection (10A), which sets out

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that a provision may be by means of a resolution of the Assembly (which may confer functions on the Northern Ireland Assembly Commission) or by means of an Act of the Assembly (which may establish an office or body and confer functions on an office-holder or body).

14. *Subsection (4)* removes subsections (3), (5) and (6) of section 47, which are no longer necessary.

15. *Subsection (5)* amends subsection (4) of section 47 to ensure that salaries paid to members of the Assembly who are also members of either House of Parliament or the European Parliament are appropriately reduced.

16. *Subsection (6)* removes subsection (7) of section 47, which prevents the delegation of determining salaries and expenses. *Subsections (7) and (8)* ensure that all determinations of salaries and allowances are published, even if made by another person. *Subsections (9), (10) and (11)* are consequential on the removal of section 47(3) of the 1998 Act by *subsection (4)*. The amendment made by *subsection (13)* is to take account of the fact that determinations may in future be made by persons other than the Assembly. *Subsection (14)* makes clear that any determination about salaries or allowances which is in force before *clause 1* is commenced will continue to have effect afterwards.

Clause 2: Pensions etc.

17. This clause makes minor consequential amendments to section 48 of the 1998 Act. Section 48 deals with pensions, allowances and gratuities for persons who cease to be members of the Assembly, or who cease to hold certain offices but continue as members of the Assembly.

18. *Subsections (2) and (3)* are consequential on the removal of section 47(3) of the 1998 Act by *clause 1(4)* of the Bill. They replace a reference to an office mentioned in section 47(3)(a) with a reference to an office in respect of which a higher salary is payable.

19. *Subsection (4)* amends the definition of “provision” in section 48(3) to make clear that an Act of the Assembly under section 48 may establish an office or body and confer functions on an office-holder or body. This makes it clear that the Assembly’s powers under section 48 are the same as its powers under section 47(10A), inserted by *clause 1(12)* of the Bill.

Clause 3: Short title and commencement

20. The short title of the Bill is the Northern Ireland Assembly Members Bill [HL].

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FINANCIAL EFFECTS

21. This Bill is not expected to have a significant effect on public expenditure. Any expenditure incurred as a result of the Bill would be met from the Consolidated Fund of Northern Ireland.

PUBLIC SECTOR MANPOWER

22. This Bill is not expected to have a material effect on public service manpower.

SUMMARY OF THE IMPACT ASSESSMENT

23. A full impact assessment is not necessary where a Bill does not have a significant impact on business, the third sector or the environment, or impose costs of more than £5million on the public sector. The department is satisfied that these criteria are not met and therefore a full impact assessment is not necessary. The Equality Impact Assessment showed that the Bill would not have equality implications.

COMPATIBILITY WITH THE EUROPEAN CONVENTION OF HUMAN RIGHTS

24. Section 19 of the Human Rights Act 1998 requires the Minister in charge of a Bill in either House of Parliament to make a statement before Second Reading about the compatibility of the provisions of the Bill with the Convention rights (as defined by section 1 of that Act).

25. Baroness Royall of Blaisdon has made the following statement:

“In my view the provisions of the Northern Ireland Assembly Members Bill [HL] are compatible with the Convention rights.”

26. None of the provisions of the Bill are thought to raise any human rights issues.

COMMENCEMENT DATE

27. *Clauses 1 and 2* will come into force by commencement order. *Clause 3* comes into force on the day the Bill is given Royal Assent.

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