

*These notes refer to the Disqualifications Act 2000 (c.42)
which received Royal Assent on 30th November 2000*

DISQUALIFICATIONS ACT 2000

EXPLANATORY NOTES

INTRODUCTION

1. These explanatory notes relate to the Disqualifications Act which received Royal Assent on 30 November 2000. They have been prepared by the Home Office in order to assist the reader in understanding the Act. They do not form part of the Act and have not been endorsed by Parliament.
2. The notes need to be read in conjunction with the Act. They are not, and are not meant to be, a comprehensive description of the Act. So where a section or part of a section does not seem to require any explanation or comment, none is given.

SUMMARY AND BACKGROUND

3. The Act amends existing legislation so as to allow members of the Irish legislature to sit in the House of Commons, the Scottish Parliament, the Northern Ireland Assembly and the National Assembly for Wales. This puts them in the same position as members of the legislatures of Commonwealth countries.
4. Currently members of the upper house (Seanad Eireann) of the Irish legislature may be members of the Northern Ireland Assembly by virtue of section 36(5) of the Northern Ireland Act 1998 (the “1998 Act”). The amendment effected by section 1 of the Act qualifies members of the lower house – the Dail – as well.
5. Irish nationals are already in the same position as Commonwealth citizens as regards standing for election to, or voting in, elections for the House of Commons, the Scottish Parliament, the Northern Ireland Assembly and the National Assembly for Wales.
6. The Act also amends the 1998 Act so as to disqualify for certain offices which may be held by members of the Northern Ireland Assembly persons who are or become Ministers of the Government of Ireland or chairman or deputy chairman of committees of the Irish legislature. The offices to which this disqualification relates are Ministerial office in Northern Ireland and those members of the Northern Ireland Policing Board drawn from the Northern Ireland Assembly.
7. In addition the Act amends the 1998 Act so as to provide that a member of the Assembly who is a Minister in the Government of Ireland or chairman or deputy chairman of committees of the Irish legislature may not be a chairman or deputy chairman of a statutory committee of the Northern Ireland Assembly or be appointed as a member of the Northern Ireland Assembly Commission (established by section 40 of the 1998 Act).

COMMENTARY ON CLAUSES

Section 1: Amendment of section 1(1)(e) of the Disqualification Acts

8. *Section 1* amends the two Acts under which at present members of all legislatures of countries or territories outside the Commonwealth are disqualified from membership of the House of Commons and the Northern Ireland Assembly – the House of Commons

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Disqualification Act 1975 and the Northern Ireland Assembly Disqualification Act 1975 – so as to remove the disqualification for members of the Irish legislature.

9. Persons disqualified from being a member of the House of Commons are also disqualified from membership of the Scottish Parliament (by virtue of section 15(1) (a) of the Scotland Act 1998) and the National Assembly for Wales (by virtue of section 12(1)(a) of the Government of Wales Act 1998). Thus the amendment to the House of Commons Disqualification Act 1975 also allows members of the Irish legislature to be members of the Scottish Parliament and the National Assembly for Wales.

Section 2: Disqualification for certain offices which may be held by members of the Northern Ireland Assembly

10. *Section 2* inserts a new section 19A in the 1998 Act. This section places restrictions on the offices which a member of the Northern Ireland Assembly who is also a Minister in the Government of Ireland or the chairman or deputy chairman of committees of the Irish legislature may hold. A member of the Northern Ireland Assembly holding such an office may not stand for election as First Minister or as deputy First Minister, or be elected as such, or be nominated to hold a Ministerial office or appointed as a junior Minister.

Provision for the election of *First Minister* and *deputy First Minister* by the Northern Ireland Assembly is made in section 16 of the 1998 Act. The provisions regarding nomination for *Ministerial office* are dealt with in section 18 of that Act and those regarding the appointment of *junior Ministers* in section 19 of that Act.

11. In addition, section 2 provides that a member of the Northern Ireland Assembly who is a Minister in the Government of Ireland or chairman or deputy chairman of committees of the Irish legislature may not be nominated under paragraph 7 of Schedule 1 to the Police (Northern Ireland) Act 2000 to the Northern Ireland Policing Board.

The *Northern Ireland Policing Board* is established by section 2 of the Police (Northern Ireland) Act 2000. Paragraph 7 of Schedule 1 to that Act provides for the nomination of members of the Northern Ireland Assembly as political members of the Board.

Section 3: Disqualification for certain Assembly offices

12. *Section 3* amends the 1998 Act to provide that members of the Assembly who are Ministers of the Government of Ireland or chairman or deputy chairman of committees of the Irish legislature may not hold certain offices connected to the Northern Ireland Assembly.

13. *Subsection (1)* amends section 29 of the 1998 Act (statutory committees) so as to provide that a member of the Assembly who holds an office mentioned in paragraph 12 above may not be the chairman or deputy chairman of a statutory committee of the Assembly.

Section 29 of the 1998 Act provides that standing orders shall make provision for the establishing of committees of the Assembly to be known as *statutory committees* and for the nomination of *chairmen and deputy chairmen* to them. The function of the statutory committees is to advise and assist each Northern Ireland Minister in the formulation of policy with respect to matters within his responsibilities as a Minister.

14. *Subsection (2)* amends section 40 of the 1998 Act (which makes provision as to the Northern Ireland Assembly Commission) so as to provide that a member of the Assembly who holds an office mentioned in paragraph 12 above may not be appointed as a member of the Commission.

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Subsection (2) of section 40 of the 1998 Act provides that the members of the *Commission* shall be the Presiding Officer of the Assembly and the prescribed number of members of the Assembly appointed in accordance with standing orders.

Section 4: Consequential repeal

15. As a result of the amendments made by section 1, section 36(5) of the 1998 Act is no longer needed and is repealed.

Commencement

16. The Act came into effect immediately on Royal Assent.

HANSARD REFERENCES

The following table sets out the dates and Hansard references for each stage of this Act's passage through Parliament.

<i>Stage</i>	<i>Date</i>	<i>Hansard reference</i>
House of Commons		
Introduction	21 December 1999	Vol. 341 Col. 680 - 681
Second Reading	24 January 2000	Vol. 343 Col. 25 - 77
Committee	25 January 2000 and 26 January 2000	Vol. 343 Col. 184 – 290 Vol. 343 Col.. 291 - 522
Third Reading	25 January 2000	Vol. 343 Col. 522 - 552
House of Lords		
Introduction	26 January 2000	Vol. 608 Col. 1636
Second Reading	27 July 2000 and 28 July 2000	Vol. 616 Col. 705 – 724 Vol. 616 Col. 761
Committee	6 November 2000	Vol. 618 Col. 1243 – 1270, 1281 – 1305 & 1321 - 1354
Report	20 November 2000	Vol. 619 Col. 526 - 556
Third Reading	28 November 2000	Vol. 619 Col. 1251 - 1259
Commons Consideration of Lords Amendments	30 November 2000	Vol. 357 Col. 1141 - 1185
Lords Consideration of Commons Message	30 November 2000	Vol. 619 Col. 1472 - 1491
Royal Assent House of Lords House of Commons	30 November 2000	Vol. 619 Col. 1492 Vol. 357 Col. 1231