

These notes refer to the Northern Ireland Assembly Members Act 2010 (c.16) which received Royal Assent on 8 April 2010

NORTHERN IRELAND

ASSEMBLY MEMBERS ACT 2010

EXPLANATORY NOTES

INTRODUCTION

1. These Explanatory Notes relate to the Northern Ireland Assembly Members Act 2010 which received Royal Assent on 8 April 2010. They have been prepared by the Northern Ireland Office in order to assist the reader of the Act and to help inform debate on it. 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. 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 Act 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 Act 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.
6. The Act also ensures that if a salary is payable to a member of the Assembly as a member of either House of Parliament or the European Parliament, they will not receive a salary as a member of the Assembly.

OVERVIEW OF THE STRUCTURE OF THE ACT

7. The Act has 3 sections and no Schedules.
8. *Section 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.
9. *Section 2* makes consequential amendments to section 48 of the Northern Ireland Act 1998.
10. *Section 3* deals with the short title and commencement.

TERRITORIAL EXTENT AND APPLICATION

11. The application of the Act is limited to Northern Ireland.

12 COMMENTARY ON SECTIONS

Section 1: Salaries and allowances

13. *Section 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”.
14. *Subsection (2)* of *section 1* amends subsections (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 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).
15. *Subsection (4)* removes subsections (3), (5) and (6) of section 47 (which are superseded by the new approach).
16. *Subsection (5)* replaces subsection (4) of section 47 to ensure that if a salary is payable to a member of the Assembly as a member of either House of Parliament or the European Parliament, he/she will not receive a salary as a member of the Assembly. This does not affect any part of the salary payable to a member of the Assembly which is attributable to the person being a minister or other office-holder.
17. *Subsection (6)* removes subsection (7) of section 47, which prevents the delegation of determining salaries and allowances. *Subsections (7) and (8)* ensure that all determinations of salaries and allowances are published, whether made by the Assembly or 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 *section 1* is commenced will continue to have effect afterwards. Any such determination will be treated as including provision for a member of the Assembly who receives a salary as a member of either House of Parliament or a member of the European Parliament not to receive a salary as a member of the Assembly. This will not affect any part of the salary payable to a member of the Assembly which is attributable to the person being a minister or other office-holder.

Section 2: Pensions etc.

18. This section 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.

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19. *Subsections (2) and (3)* are consequential on the removal of section 47(3) of the 1998 Act by *section 1(4)* of the Act. 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.
20. *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 *section 1(12)* of the Act.

Section 3: Short title and commencement

21. The short title of the Act is the Northern Ireland Assembly Members Act 2010.

COMMENCEMENT DATE

22. *Sections 1 and 2* will come into force by commencement order. *Section 3* comes into force on the day the Act is given Royal Assent.

HANSARD REFERENCES

23. 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 Lords		
Introduction	19 November 2009	Vol. 715 Col. 27
Second Reading	1 December 2009	Vol. 715 Cols 720 – 732
Committee	12 January 2010	Vol. 716 Cols GC73 – GC82
Report	3 February 2010	Vol. 717 Cols. 215 - 222
Third Reading	24 February 2010	Vol. 717 Cols. 1023 - 1025
House of Commons		
Introduction	24 February 2010	Vote entry on 24 February
Second Reading	11 March 2010	Vol. 507 Cols. 491 - 508
Committee & Remaining Stages	7 April 2010	Vol. 508 Cols. 1015 - 1026
Royal Assent – 8 April 2010	House of Lords Hansard Vol. 718 Col. 1738	
	House of Commons Hansard Vol. 508 Col. 1256	