

These notes refer to the Assembly Members (Independent Financial Review and Standards) Act (Northern Ireland) 2011 (c.17) which received Royal Assent on 29 March 2011

Assembly Members (Independent Financial Review and Standards) Act (Northern Ireland) 2011

EXPLANATORY NOTES

BACKGROUND AND POLICY OBJECTIVES

Independent Financial Review Panel

3. On 4 May 2007, prior to the restoration of devolution, the Secretary of State wrote to the Chairman of the Review Body on Senior Salaries (“the SSRB”) seeking its agreement to conduct a review of the existing structure for salaries, expenditure and pension benefits payable to Members and office holders of the Northern Ireland Assembly (“the Assembly”). The SSRB, which completed its report in November 2008, recommended that the Assembly should commit to accepting the outcome of future independent reviews on salaries, allowances and pensions without modification, thereby respecting the impartiality of the external review process. This was proposed in response to the desire of Members of the Assembly to be distanced from deciding their own salaries and financial support arrangements. After considering the SSRB Report, the Commission supported the recommendation of the SSRB that consideration should be given to the establishment of an independent mechanism for the future determination of salaries, pensions and financial support for Members. To take this forward the Commission recommended that an amendment to the Northern Ireland Act 1998 (“the 1998 Act”) should be made to enable the Assembly to delegate in its entirety the function of determining salaries, pensions and financial support to an independent statutory body.
4. The framework for determining and paying salaries, allowances, pensions and gratuities is governed by sections 47 and 48 of the 1998 Act. Section 48 of the 1998 Act allows for provision for the payment of pensions, gratuities or allowances to former Members or office holders to be delegated by the Assembly. However, until recently, section 47 of the 1998 Act, which governs the determination and payment of Members’ salaries and allowances, explicitly prevented the Assembly from delegating the function of making a determination. The Northern Ireland Assembly Members Act 2010, which received Royal Assent on the 8 April 2010, amended sections 47 and 48 of the 1998 Act and allows the Assembly to continue to determine salaries and

allowances in respect of Members or to delegate this function to an independent body. This Act establishes such an independent body, namely the Independent Financial Review Panel (“the Panel”).

5. The Panel will be independent and will have the power to determine all aspects of financial support for Members. Such determinations will be binding on the Assembly. The Commission will retain the administration of the salaries and expenditure incurred by Members and will provide administrative support and accommodation to the Panel in a manner which respects the Panel’s independence. The Panel will be required to exercise its functions with a view to achieving a proper balance between the objective of ensuring probity, accountability and value for money with respect to the expenditure of public funds and the objective of securing an adequate level of remuneration for Members which allows them to discharge their functions effectively.

Northern Ireland Assembly Commissioner for Standards

6. All Members of the Assembly are required to comply with the requirements of the Assembly’s Code of Conduct and Guide to the Rules Relating to the Conduct of Members (“the Code of Conduct”). The Assembly agreed a new Code of Conduct which came into effect in October 2009. Following this, the Committee began an inquiry into enforcing the Code of Conduct and the appointment of a Northern Ireland Assembly Commissioner for Standards (“the Commissioner”). The aim of the inquiry was to establish the most appropriate means of maintaining the Code of Conduct and handling alleged breaches in relation to it.
7. As part of this inquiry the Committee carried out a consultation and received written submissions and oral evidence from key stakeholders. These helped the Committee to conclude that, in relation to handling alleged breaches of the Code of Conduct, it was appropriate that an independent Commissioner should carry out investigations into complaints; that the Committee should determine whether a breach had occurred; and the Assembly should impose sanctions where appropriate. The Committee also concluded, inter alia, that legislation was required and that the Commissioner’s role, powers (including the power to call for witnesses and documents) and independence from the Assembly in respect of specific investigations should all be set out on a statutory basis. In addition, the Committee also agreed that the Commissioner should have the power to initiate an investigation if the Commissioner believes that a breach of the Code of Conduct may have occurred. It is this particular power, which had been recommended by the Committee on Standards and Public Life, which makes the Northern Ireland model distinct.
8. The Assembly endorsed these conclusions when it approved the Committee’s report on the inquiry on 1 June 2010. This Act therefore establishes an Assembly Commissioner for Standards. The Act provides for the Commissioner to receive and investigate complaints and other issues concerning Members, to initiate investigations, and to report the outcome to the Assembly. The Act provides for the independence of the Commissioner.

These notes refer to the Assembly Members (Independent Financial Review and Standards) Act (Northern Ireland) 2011 (c.17) which received Royal Assent on 29 March 2011

The Act also provides for the Commissioner to have the power to call for witnesses and documents and creates offences in relation to refusing to provide or otherwise failing to give evidence.