

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

COMMENTARY ON SECTIONS

Part 1: The Independent Financial Review Panel

Section 1: Establishment and membership of the Panel

This section establishes the Independent Financial Review Panel, which will consist of a Chair and two other members.

Section 2: Functions of the Panel

This section sets out the functions of the Panel. The Panel is to determine the salaries and allowances payable to Members of the Assembly under section 47 of the 1998 Act and the pensions, gratuities and allowances payable to former Members and office holders under section 48. The Panel will be subject to specific objectives in terms of probity, accountability, value for money and securing an appropriate level of remuneration for Members of the Assembly.

The Panel may also consider any other matter relevant to its functions either on its own initiative or at the Commission's request.

Section 3: Independence and openness

This section provides that the exercise of the Panel's functions is not subject to the direction or control of the Assembly or the Commission. The section also makes provision concerning the public availability of material.

Section 4: Appointments to the Panel

This section provides for the Chair and other Panel members to be appointed by the Commission for terms of five years from the date of the appointment. A person may only be appointed to serve on the Panel on two occasions i.e. for a total of no more than ten years.

Section 5: Panel: disqualifications

This section applies Schedule 1, which lists the persons who are disqualified from being appointed or serving as Panel members. In order to ensure that the Panel is independent of Members, and is seen to be independent, a very broad range of connections to the Assembly or individual Members will result in disqualification.

Section 6: Termination of membership of the Panel

This section provides for the circumstances in which a Panel member will cease to hold office or may be dismissed. Under certain circumstances, a Panel member will automatically cease to hold office. In other circumstances, the Commission may dismiss a person from the Panel.

Section 7: Code of conduct for Panel members

This section requires the Panel to issue a code of conduct for its members and makes provision for the contents of the code. This code will require members of the Panel to adhere to the seven principles of public life (often referred to as “the Nolan principles”) and will make provision in respect of the disclosure of interests by Panel members.

Section 8: Administration and finance

This section applies Schedule 2, which makes administrative and financial provision in respect of the Panel.

Section 9: Annual report

This section requires the Panel to make an annual report to the Commission on its activities during the year.

Section 10: Meetings of the Panel

Under this section the Panel will determine its own procedure. The section also provides that the Panel’s proceedings and determinations remain valid notwithstanding a vacancy or a defect in the appointment of a Panel member.

Section 11: Exercise of functions

This section makes detailed provision concerning the timing and frequency of determinations. The general rule will be that a determination will be made only once in respect of each Assembly. Further determinations may be made as necessary to take account of changes in the law and practice relating to pensions or exceptional circumstances. Unless there are changes in the law and practice relating to pensions or exceptional circumstances, there will not be a determination where there is less than a year between an ordinary general Assembly election and an extraordinary Assembly election.

The Panel is required, so far as is reasonably practicable, to make its determination before the election to the Assembly in relation to which the determination relates, although a determination will survive until a new determination is made replacing it. This will allow candidates and the electorate to know, in advance of an election, what financial support will be available to an elected candidate.

The section also provides for the duration of determinations and the reporting and publication of statements concerning the existence of exceptional circumstances.

Section 12: Contents of determinations: salaries and allowances

Section 47 of the 1998 Act includes provisions which must apply to salaries and allowances payable under that section, for example, providing that if a Member is also a member of the House of Commons, his or her salary is to be reduced. This section applies those same provisions to the Panel's determinations on salaries and allowances.

Section 13: Contents of determinations: pensions, gratuities and allowances

Section 48 of the 1998 Act includes provisions regarding pension contributions, pension schemes and the calculation of pensions. This section applies those same provisions to the Panel's determinations on pensions, gratuities and allowances.

Section 14: Availability of determinations

This section makes provision for determinations to be reported to the Commission and published. This is consistent with section 47 (8A) of the 1998 Act which requires that provision made under section 47 (2A) (b) of the 1998 Act includes provision for the publication of every determination of salaries and allowances under that provision. This section is to ensure that the content of the determination is open and transparent.

Section 15: Meaning of "the Panel"

This section defines "the Panel".