

ALLOWANCES TO MEMBERS OF THE ASSEMBLY (REPEAL) ACT (NORTHERN IRELAND) 2011

EXPLANATORY NOTES

INTRODUCTION

1. These Explanatory Notes relate to the Allowances to Members of the Assembly (Repeal) Act (Northern Ireland) 2011 (c. 8). They have been prepared by the Northern Ireland Assembly Commission in order to assist the reader in understanding the Act. They do not form part of the Act and have not been endorsed by the Assembly.
2. The notes need to be read in companion with the Act. They do not, and are not meant to be, a comprehensive description of the Act. So where a section or part of a section or Schedule does not seem to require any explanation or comment, none is given.

BACKGROUND

3. The framework for paying allowances to Members of the Assembly is governed by sections 47 and 48 of the Northern Ireland Act 1998.
4. Section 47 of the Act allows the Assembly to make provision for allowances for **current** Members of the Assembly. Section 48 allows the Assembly to make provision for the payment of allowances to, or in respect of, any person who has ceased to be a Member of the Assembly – i.e., a **former** Member. Three such allowances are provided for, in the Allowances to Members of the Assembly Act (Northern Ireland) 2000 (c. 3) ('the 2000 Act'). They are Resettlement Allowance, Ill-Health Retirement Allowance, and Winding-up Allowance ('the 2000 Act allowances').
5. The Northern Ireland Assembly Commission (which, under section 40 of the Act, is required to provide the Assembly, or ensure that the Assembly is provided, with the property, staff and services required for the Assembly's purposes) has given extensive consideration to a number of issues relating to the pay, pensions and expenditure of Members. In particular, agreeing with recommendations made to it by the Review Body on Senior Salaries ('the SSRB'), the Commission has recommended changes to the 2000 Act allowances. The Commission proposes that these changes are made by first repealing the 2000 Act in its entirety, and then making new provision by determination under section 48.
6. The Commission also proposes that the Assembly passes an Act establishing an Independent Statutory Body ('ISB') that will determine the future pay, pension and financial support arrangements for Members or former Members of the Assembly (including any allowances for former Members similar to the 2000 Act allowances). Such a body cannot be empowered to pass primary legislation for Northern Ireland, and

therefore could not itself repeal the 2000 Act. The repeal of the 2000 Act is therefore a necessary step in the project to establish and empower such a body.

7. The Commission report came before the Assembly on 13 December 2010.

BROADER POLICY OBJECTIVES

8. The Act does not itself make any provision in relation to the new allowances. However in the interests of transparency and of enhancing understanding of the broader policy proposals, they are outlined below. A draft determination making such provision was put before the Assembly 13 December 2010.

Resettlement Allowance

9. Each former Member who is not returned following an election (either through standing down or through non-election) is entitled to receive a resettlement allowance. This allowance is based on 'salary as a Member' (i.e. the basic salary, excluding for example any additional ministerial salary) and is calculated according to the Schedule to the 2000 Act. The Schedule provides a matrix that shows the percentage to be applied to the salary as a Member in order to calculate the resettlement allowance. That percentage is based on a Member's age at the date of dissolution and the length of his or her service. The Schedule specifies that all Members who have less than 10 years' service as a Member receive the same level of allowance regardless of their age. At the 2007 election, for example, all Members received the same level of allowance even though some had been Members since the establishment of the Assembly while others had only been Members for a matter of months. The SSRB report suggested that resettlement allowance should, like a redundancy payment, reflect length of service.
10. The SSRB report also noted that, by including a Member's age as a factor in determining resettlement allowance, the 2000 Act runs contrary to the principle of age discrimination legislation.

Having considered the issue, the Commission, in accordance with the SSRB's recommendation, is recommending that resettlement allowance be renamed as resettlement payment and calculated at one month's salary for each year of service as an Member, up to a maximum of nine months' salary, and paid to any person who is a Member of the Assembly immediately before its dissolution who does not stand for election to the Assembly, or does stand, but is not returned as a Member.

Ill-health Retirement Allowance

11. The 2000 Act allows the Commission to pay an amount to a Member who retires through ill-health, calculated using exactly the same matrix as for resettlement allowance (see above). In accordance with the SSRB's recommendation, the Commission is recommending that ill-health retirement allowance be renamed as ill-health retirement payment and calculated in the same way as the resettlement payment.

Winding-up Allowance

12. Winding-up allowance is paid to, or in respect of, persons who cease to be Members. The maximum level that can be claimed is set in the 2000 Act and can be changed by order made by the Commission. The SSRB sought to tidy up the expenditure regime by establishing a direct proportion (of one-third) between the rate of office costs expenditure and winding-up allowance. In accordance with the SSRB's recommendation, the Commission is therefore recommending that winding-up allowance be renamed as winding-up expenditure and that the limit be set, and remain at, one third of the office costs expenditure each time the level of the office costs expenditure is increased.

OVERVIEW

13. The Act repeals the Allowances to Members of the Assembly Act (Northern Ireland) 2000 (c. 3) and makes a consequential repeal to the Statutory Rules (Northern Ireland) Order 1979 (NI 12). Its repeal provisions will come into operation on Royal Assent. On that date, the replacement allowances provisions (provided the Assembly in due course makes the determination that is put before it by the Commission), as recommended by the SSRB, will also come into operation.

COMMENTARY ON SECTIONS

14. The Act contains 3 sections. A commentary on them follows.

Section 1: Repeals

15. Section 1(1) repeals the Allowances to Members of the Assembly Act (Northern Ireland) 2000 (c. 3).
16. Section 1(2) makes a consequential amendment, repealing the entry in the schedule to the Statutory Rules (Northern Ireland) Order 1979 (NI 12). That entry was inserted by the 2000 Act, and is relevant only to the operation of that Act.

Section 2: Commencement

17. Section 2 states that the Act will come into force on the day of Royal Assent, therefore the repeal of the 2000 Act will occur on that date.

Section 3: Short Title

18. Section 3 provides for the short title of the Act.

HANSARD REPORTS

20. The following table sets out the dates of the Hansard reports for each stage of the Acts passage through the Assembly.

STAGE	DATE
Introduction of the Act	15 June 2010
Second Stage Debate	18 January 2011
Committee Stage	N/A
Consideration Stage in the Assembly	24 January 2011
Further Consideration Stage	25 January 2011
Final Stage	31 January 2011
Royal Assent	10 February 2011

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