



LOCAL GOVERNMENT (DISQUALIFICATION) (AMENDMENT) BILL

EXPLANATORY AND FINANCIAL MEMORANDUM

INTRODUCTION

1. This Explanatory and Financial Memorandum has been prepared for Ms Dawn Purvis MLA in order to assist the reader of the Bill and to help inform debate on it. It does not form part of the Bill and has not been endorsed by the Assembly.

2. The Memorandum needs to be read in conjunction with the Bill. It is not, and is not meant to be, a comprehensive description of the Bill. So where a clause or part of a clause or schedule does not seem to require an explanation or comment, none is given.

BACKGROUND AND POLICY OBJECTIVES

3. The member's objective is to reduce the practice of individuals holding more than one elected office at a time, an issue sometimes referred to as 'multiple mandates'.

4. The question of 'multiple mandates' has been debated by the Assembly on a number of occasions, including on 10 March 2009 which focused on dual mandates between the Northern Ireland Assembly and the UK Parliament. More recently, on 23 November 2009, the Assembly resolved:

"That this Assembly notes the recommendations of the Committee on Standards in Public Life, 'Supporting Parliament, Safeguarding the Taxpayer'; calls on all political parties within the Assembly and Parliament to commit to an end to "double-jobbing", including private sector employment, ideally by the time of the scheduled election in May 2011 or, failing that, by 2015 at the latest; and further calls on the First Minister and deputy First Minister to convey the opinion of the Assembly on this matter to the Prime Minister and the Leader of the Opposition."

5. The Assembly & Executive Review Committee (AERC) Committee has also considered the subject and retains it as an issue for consideration on their forward work programme for 2009/10.

6. The Assembly does not have the authority to legislate to disqualify its members from being members of the UK Parliament.

7. The sole purpose of the bill is to amend the Local Government Act (Northern Ireland) 1972, Section 4, to disqualify elected members of the Assembly from holding office as councillors. Penalties for violating this restriction would remain as stated in the current legislation.

CONSULTATION

8. In excess of 140 individuals and organisations were consulted on the proposals including political parties, community and voluntary organisations, the Environment Minister as well as the Environment Committee and the Assembly and Executive Review Committee. A number of discussions and follow-up meetings were held with key stakeholders.

9. There was strong support for the proposal. Of 16 substantive responses received, only two respondents raised objections. All other respondents offered a variety of opinions and arguments in favour of ending dual mandates.

OPTIONS CONSIDERED

10. One option considered was to disqualify councillors from holding office as members of the Assembly but this would involve legislating on a reserved matter requiring the consent of the Secretary of State.

11. The option selected involves legislating in the area of local government which is not subject to such a requirement.

12. A further option considered was the possibility of amending the Electoral Law Act (Northern Ireland) 1962 to change the way vacancies are filled on local councils in such a way as to mirror the new system in place for filling vacancies in the Assembly by virtue of the Northern Ireland Assembly (Elections) (Amendment) Order which came into force on 10 February 2009.

13. Under the new Assembly system, a vacancy is filled by a new member being appointed by the nominating officer of the party to which the departing member belonged.

14. Applying such a system to councils was proposed to facilitate implementation of the present bill and enhance support for the remaining provisions by reducing the number of by-elections that would arise should elected representatives wish to vacate a position.

15. This option could not be pursued as the matter of elections is 'excepted' and the Assembly is not competent to legislate on excepted matters as set out in Schedule 2 of the Northern Ireland Act 1998. It is noted, however, that the Secretary of State has just completed a public consultation on the subject, which closed on 10 January 2010.

OVERVIEW

16. The Bill has 3 clauses.

17. Section 4 of the 1972 Act deals with disqualifications. Clause 1 inserts an additional disqualification after section 4(1)(e) to preclude members of the Northern Ireland Assembly from being, or being elected, a councillor.

18. The second clause states that the Act will come into force on the day of the next district council general election, which is expected to take place in May 2011.

COST IMPLICATION OF THE PROPOSALS

19. Enacting this legislation will have no significant financial implications.

EQUALITY AND HUMAN RIGHTS IMPLICATIONS OF THE PROPOSALS

20. The provisions of the Bill are compatible with the provisions of the Human Rights Act 1998.

21. The provisions are believed to be consistent with equality of opportunity.

LEGISLATIVE COMPETENCE

22. The member in charge of the bill, Ms Dawn Purvis MLA, had made the following statement under section 9 of the Northern Ireland Act 1998:

“In my view the Local Government (Disqualification) (Amendment) Bill would be within the legislative competence of the Northern Ireland Assembly.”



Local Government (Disqualification) (Amendment) Bill

[AS INTRODUCED]

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TO

Amend the Local Government Act (Northern Ireland) 1972 to disqualify members of the Northern Ireland Assembly from being elected, or being, a councillor.

BE IT ENACTED by being passed by the Northern Ireland Assembly and assented to by Her Majesty as follows:

Disqualification

1. In section 4(1) (disqualifications for being elected, or being, a councillor) of the Local Government Act (Northern Ireland) 1972 (c. 9), after paragraph (e) add—

“(f) that person is a member of the Northern Ireland Assembly.”.

Commencement

2. The provisions of this Act come into operation on the day of the first district council general elections to take place after Royal Assent.

Short Title

3. This Act may be cited as the Local Government (Disqualification) (Amendment) Act (Northern Ireland) 2009.

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