



Northern Ireland  
Assembly

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**AD HOC COMMITTEE**

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**OFFICIAL REPORT**  
(Hansard)

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**Assembly Members (Independent  
Financial Review and Standards) Bill**

8 December 2010

# NORTHERN IRELAND ASSEMBLY

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## AD HOC COMMITTEE

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### Assembly Members (Independent Financial Review and Standards) Bill

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8 December 2010

**Members present for all or part of the proceedings:**

Mr Fred Cobain (Chairperson)

Mr Paul Givan

Mr Kieran McCarthy

Mr Conall McDevitt

Mr Daithí McKay

**The Chairperson (Mr Cobain):**

This item is the consideration of the written submissions. There is a summary of the issues raised in written submissions, as well as copies of the submissions themselves, in members' papers. Are there any comments that you want to make on any of those submissions?

OK, we will go on quickly to the informal clause-by-clause scrutiny of the Bill. Members should indicate today if they require any further information on any clause. Officials will attend the next meeting, on 13 December, to provide clarification. We need to consider each clause today, and if members want any additional information they need to request it at this stage.

The Committee on Standards and Privileges and the Assembly Commission propose to make a number of amendments to the Bill. Officials will brief the Committee on those amendments at the next meeting. A copy of the amendments to Part 1 of the Bill proposed by the Commission has been tabled.

The Committee has a very tight deadline. We have to have a formal and final position on every clause by next Wednesday. This item of business is being recorded by Hansard for inclusion in the Committee's report. Again, just make sure that all of your electronic devices are switched off.

I refer members to the clause-by-clause summary of responses, which details all of the issues that were raised with each clause along with all of the responses from the Committee on Standards and Privileges and the Assembly Commission. Members may want to refer to that document as we move through the clauses.

On clause 1, the National Assembly for Wales Remuneration Board considered that having five members allowed it to draw on experience from a variety of backgrounds. The Commission considers the model of three to be the most cost-effective, allowing experience to be drawn in from a variety of backgrounds. Are Members happy with three?

*Members indicated assent.*

**The Chairperson:**

Clause 2 is about the functions of the panel. No issues were raised around this clause. Are members happy with the general contents of the clause?

*Members indicated assent.*

**The Chairperson:**

Clause 3 deals with independence and openness. Again, no issues were raised with the clause. Are members happy with the general contents of the clause?

*Members indicated assent.*

**The Chairperson:**

Clause 4 deals with appointments to the panel. Some Committee members sought assurances that best practice, as developed by the Office of the Commissioner for Public Appointments, would be followed. The Commission has advised that there will be a fair and open appointment process,

consistent with the principles of best practice published by the Commissioner for Public Appointments in Northern Ireland. Are members happy with the contents of that clause?

*Members indicated assent.*

**The Chairperson:**

Clause 5 deals with disqualification from membership of the panel. No issues were raised on the clause. Are members happy with its general content?

*Members indicated assent.*

**The Chairperson:**

Clause 6 deals with termination of membership of the panel. The National Assembly for Wales Remuneration Board considered that the Committee would need to review what form of safeguard against arbitrary dismissal would be most likely to work and best in practice. The Commission is satisfied that the grounds for dismissal are transparent and are listed in the Bill. Arbitrary dismissal is guarded against by high levels of visibility and judicial review. Are members happy with the contents of the clause?

*Members indicated assent.*

**The Chairperson:**

Clause 7 deals with the code of conduct for panel members. This was an issue that was raised by the National Assembly for Wales Remuneration Board. The Bill does not provide any detail of how it will ensure that panel members will work within the code of conduct. The Commission is satisfied that clause 7 makes it clear that the intention is that members will work within the code of conduct. The wording is modelled on the Parliamentary Standards Act 2009. Are members happy with that?

*Members indicated assent.*

**The Chairperson:**

Clause 8 deals with administration and finance. Some submissions commented on the fact that the panel would not have its own officials. Arrangements will need to be monitored to ensure the

independence of any advice that is given. The National Assembly for Wales Remuneration Board also wished that the Ad Hoc Committee should be satisfied that the panel has sufficient resources. The Commission recognised the importance of establishing arrangements to ensure the independence of the panel and its proper use of resources. Are members happy with the general content of that clause?

*Members indicated assent.*

**The Chairperson:**

Clause 9 deals with the annual report. No issues were raised about that clause. Are members happy with its general content?

*Members indicated assent.*

**The Chairperson:**

Clause 10 deals with meetings of the panel. No issue were raised about clause 10. Are members happy with its general content?

*Members indicated assent.*

**The Chairperson:**

Clause 11 deals with exercise of functions. The National Assembly for Wales Remuneration Board asked whether only allowing the panel to make more than one determination per year in exceptional circumstances would reduce its flexibility to make further determinations in light of circumstances or experience. The Commission is satisfied that the clause makes appropriate provision and strikes the correct balance. It wishes to amend clause 11(6). The amendment is to leave out “this Act” and insert “this Part”. Are you content with that amendment?

*Members indicated assent.*

**The Chairperson:**

Are you happy with the general content of clause 11?

*Members indicated assent.*

**The Chairperson:**

Clause 12 deals with contents of determinations and salaries and allowances. No issues were raised on that clause. Are you happy and content with this clause?

*Members indicated assent.*

**The Chairperson:**

Clause 13 deals with contents of determinations, pensions, gratuities and allowances. No issues were raised on the clause. The Assembly Commission wishes to amend clause 13(2)(a) to leave out “such”. Are members content with that amendment?

*Members indicated assent.*

**The Chairperson:**

Are members happy with the general content of the clause, with that amendment inserted?

*Members indicated assent.*

**The Chairperson:**

Clause 14 deals with the availability of determinations. The Committee has sought clarification on whether determinations of the panel would be binding. The Commission confirmed that it does not have power to amend or reject any determination. Pursuant to clause 14, all determinations will be published in full. Therefore, the Commission cannot amend them prior to publication. Are members happy with that?

*Members indicated assent*

**The Chairperson:**

Clause 15 deals with the meaning of “the panel”. No issues were raised on the clause. Are members happy with the general contents of the clause?

*Members indicated assent.*

**The Chairperson:**

Clause 16 deals with the establishment of the commissioner — these are the only two issues on which we have to adjudicate. No issues were raised on clause 16. If you are happy with the general contents of this clause, we will go on.

*Members indicated assent.*

**The Chairperson:**

Clause 17 deals with the functions of the commissioner. I have to advise you that the Scottish Parliamentary Standards Commissioner queried whether the commissioner should be under a duty to report on all complaints, particularly those which after initial investigation are found to be irrelevant or inadmissible. The Committee on Standards and Privileges advised that the code of conduct provides for the commissioner to advise that no investigation should be carried out into complaints that are inadmissible, trivial or vexatious, or that relate to a complaint that has been substantially investigated on a previous occasion. Where it is agreed that no investigation should be carried out, there will be no requirement for any sort of report to be published on the details of the complaint. Are you happy with the general content of that clause?

*Members indicated assent.*

**The Chairperson:**

This is not a seance; you have to speak up. It is not like our Committee, Mr McDevitt. Clause 18 deals with the independence of the commissioner. There were no issues raised. Are you happy with the general contents of the clause?

*Members indicated assent.*

**The Chairperson:**

Clause 19 deals with the appointment of the commissioner. Confirmation was sought that best practices as developed by the office of the Commissioner for Public Appointments would be followed. The Scottish Parliamentary Standards Commissioner queried whether the five-year term was too short and whether a provision for reappointment should be included. The Committee on Standards and Privileges recognises that the Commissioner for Public Appointments has developed best practice and agrees that any appointment should be made in

line with best practice principles; the commissioner should therefore be consulted on the proposals.

It should be noted that clause 19(4)(a) places a duty on the Assembly to ensure that the commissioner is appointed by fair and open competition. It was the Commissioner for Public Appointments who recommended a one-off term of appointment of five years. The Committee on Standards and Privileges said that a commissioner who may later require Members to support a reappointment could be perceived to be compromised. Happy with that?

*Members indicated assent.*

**The Chairperson:**

Clause 20 deals with disqualification from being appointed or serving as the commissioner. Some members expressed concerns that the list of disqualifications is too broad. That view is strongly held by the Northern Ireland Human Rights Commission, which feels that the Bill goes too far in debaring people on the basis of relationships that extend well into the outer reaches of the family. The Committee on Standards and Privileges considers that, in the interests of independence, a broad range of disqualifications should be listed. Are members happy with that general content?

*Members indicated assent.*

**Mr McDevitt:**

So that I am clear: does that mean that the Committee is going with the list in schedule 3?

**The Chairperson:**

Yes.

**Mr McDevitt:**

It is an extremely long list, and this is a very small place. It may sound like an obvious question, and I apologise if it has been asked before, but has the Committee conducted any research to figure out how related people are to each other in this part of the world?



**The Chairperson:**

Yes.

**Mr McDevitt:**

So you have satisfied yourself?

**The Chairperson:**

This Committee did not. These are coming from the Standards and Privileges Committee. Are you on that Committee?

**Mr McDevitt:**

No.

**The Chairperson:**

The Standards and Privileges Committee did a lot of background work on this, and that is its recommendation after doing that work.

**Mr McDevitt:**

Fair enough.

**Mr McKay:**

What exactly has the Human Rights Commission said?

**The Chairperson:**

It is in your pack. Monica McWilliams has responded. She basically said that she thought the Bill was too severe and that it disqualified too many people.

**Mr McKay:**

I think I go with that view as well. It does go too far.

**The Chairperson:**

OK. We will go to a vote.

**The Committee Clerk:**

No, you can come back to it.

**The Chairperson:**

We will come back to it. We are just going through this; we will come back over it.

**Mr McDevitt:**

Has this Committee had a chance to review some of the research material that was available to the Standards and Privileges Committee in order to figure out how far that extends in the general population? Are you talking about 30% of the population, 20% or 10%?

**The Chairperson:**

No, we did not do that.

**Mr McDevitt:**

It might be helpful.

**The Committee Clerk:**

Officials from the Standards and Privileges Committee will be back on Monday.

**The Chairperson:**

You can ask them. The point I am making is that this Committee is time-bound for a fortnight.

**Mr McDevitt:**

I understand that. I am not trying to complicate matters.

**The Chairperson:**

There is always a first time for everything. On a serious note, a lot of the work has already been done, and all we will be doing is going back over stuff that has been gone over for a period of months. We can ask that question on Monday.

**Mr Givan:**

What clause does that relate to again?

**The Chairperson:**

Clause 20.

**Mr Givan:**

I personally think the list goes too far as well, but the Committee on Standards and Privileges has recommended it.

**The Chairperson:**

We will ask the officials next week; Conall, you can raise it. We will prepare them and let them know that the question is going to be asked.

No issues were raised around clause 21, on termination of a commissioner's appointment. Are members content with clause 21?

*Members indicated assent.*

**The Chairperson:**

Clause 22 deals with further provision about the Commissioner. The Scottish Parliamentary Standards Commissioner felt that the commissioner should be able to appoint staff and obtain office accommodation as he or she sees fit, subject to the Commission's approval. The Committee on Standards and Privileges advised that, although the Commission has a duty to provide administrative and other support, the commissioner can secure the provision of such goods and services required to exercise his or her functions. That is in schedule 4 to the Bill. The commissioner cannot directly employ persons; doing so would have legal and financial implications.

Are you happy with the general contents of that clause?

*Members indicated assent.*

**The Chairperson:**

No issues were raised concerning clause 23. Are you happy with that?

*Members indicated assent.*

**The Chairperson:**

Quickly on to clause 24, directions to the commissioner. Some members had sought for such directions to include directions on naming the complainant who prompted the commissioner to undertake any investigations. The Standards and Privileges Committee confirmed that clause 24 provides the Assembly with the power to issue such directions. Are you happy with that?

*Members indicated assent.*

**The Chairperson:**

Investigations by the commissioner: as with clause 17, the Scottish Parliamentary Standards Commissioner queried whether the commissioner should be under a duty to report all complaints, particularly those that initial investigations find to be irrelevant or inadmissible. The Committee on Standards and Privileges advises that, where it is agreed that no investigation should be carried out, there should be no requirement for any sort of report to be published on the details of the complaint. Happy with that?

*Members indicated assent.*

**The Chairperson:**

There are no issues with clause 26. Are members happy with that?

*Members indicated assent.*

**The Chairperson:**

On clause 27, some members thought that the directions to the commissioner should include directions on naming any complainant who prompted the commissioner to undertake any investigation. The Committee on Standards and Privileges confirmed that clause 24, again, provides the Assembly with the power to issue such directions regarding reports. Happy with that?

*Members indicated assent.*

**The Chairperson:**

Clause 28 is the power to call for witnesses and documents. There were no issues raised in respect of clause 28. Clause 29 also deals with witnesses and documents. Again, no issues were raised. Are you happy with that?

*Members indicated assent.*

**The Chairperson:**

No issues were raised about clause 30, oaths. Are you happy with that?

*Members indicated assent.*

**The Chairperson:**

Clause 31, offences. No issues were raised. Happy with that?

*Members indicated assent.*

**The Chairperson:**

No issues were raised concerning clause 32, protection from defamation actions. Clause 33 deals with restrictions on disclosure of information. The Scottish Parliamentary Standards Commissioner asked whether, where a complaint is received about a particular Member, the commissioner should have the authority to acknowledge that to be the case. The Committee on Standards and Privileges advised that the Assembly could, if it felt it to be appropriate, give the commissioner such authority in a direction under clause 24. Happy with that?

*Members indicated assent.*

**The Chairperson:**

Transitional provisions — no issues under this clause. Clause 35 deals with orders. There were no issues raised. Agreed?

*Members indicated assent.*

**The Chairperson:**

Clause 36 is consequential amendments. No issues were raised. Happy with that?

*Members indicated assent.*

**The Chairperson:**

No issues were raised about clause 37: “Interpretation: general”. Are you happy with that?

*Members indicated assent.*

**The Chairperson:**

Clause 38: “Commencement”. No issues were raised. Are you happy with that?

*Members indicated assent.*

**The Chairperson:**

Clause 39 is the Bill’s short title. No issues were raised under clause 39. Schedule 1 deals with disqualification from membership of the panel. No issues were raised. Happy with that?

*Members indicated assent.*

**The Chairperson:**

Schedule 2: “Panel: administrative and financial arrangements”. An issue was raised under clause 8 about ensuring that the panel has sufficient resources and monitoring the independence of any advice given. The Commission recognises the importance of establishing arrangements to ensure the independence of the panel and its proper use of resources. Are you happy with that?

*Members indicated assent.*

**Mr McDevitt:**

Do schedule 1 and schedule 2 not fall under the purview of the Human Rights Commission’s concerns?

**The Committee Clerk:**

The Human Rights Commission was more concerned about disqualifications for the commissioner, because they are broader than those for membership of the panel.

**Mr McDevitt:**

OK, so it was only schedule 3. Thank you.

**The Chairperson:**

Schedule 3 deals with disqualification from being appointed or serving as the commissioner. The issues raised are as at clause 20. The Committee on Standards and Privileges considered that, in the interests of independence, a broad range of disqualifications should be listed. OK?

*Members indicated assent.*

**The Chairperson:**

Schedule 4: “Commissioner: further provision”. An issue was raised on clause 22 regarding whether the commissioner should be entitled to appoint staff and obtain accommodation, subject to the approval of the Assembly. The Committee on Standards and Privileges advised that, although the Commission has a duty to provide administrative and other support, the commissioner can secure the provision of such goods and services as are required to exercise his or her functions. However, the commissioner cannot directly employ people. There would be a number of legal and financial implications if the commissioner were able to do that. Are members content with schedule 4?

*Members indicated assent.*

**The Chairperson:**

Schedule 5 is consequential amendments. No issues were raised around this. Agreed?

*Members indicated assent.*

**The Chairperson:**

The Assembly Commission wishes to amend schedule 5 at paragraph 1, leaving out “the Schedule” and inserting “Schedule 1”. OK?

*Members indicated assent.*

**The Chairperson:**

If we need clarification on any of the issues, we will get that next week.