



Research Paper 23/10

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# **LOCAL GOVERNMENT (DISQUALIFICATION) (AMENDMENT) BILL**

This paper considers the provisions introduced by the Local Government (Disqualification) (Amendment) Bill. It gives a brief background account on the current legislation covering the disqualification of a person as a councillor; some of the views expressed regarding the holding of two or more positions; and finally, a summary of the proposals of the new legislation.

Library Research Papers are compiled for the benefit of Members of The Assembly and their personal staff. Authors are available to discuss the contents of these papers with Members and their staff but cannot advise members of the general public.

## **SUMMARY OF KEY POINTS**

- The Private Members Bill, 'The Local Government (Disqualification) (Amendment) Bill' was introduced to the Northern Ireland Assembly in February 2010.
- The new Act amends current legislation for the disqualification of a person as a councillor, found under the Local Government Act (Northern Ireland) 1972.
- The introduction of the prohibition of a person as a councillor and a member of the Northern Ireland Assembly (dual mandates) was debated in March 2010.
- Members of the Assembly displayed mixed views on the topic.
- The National Association of Councillors (Northern Ireland Region) expects an increase in the responsibilities and workload of councillors due to the RPA, and expresses that this needs to be addressed effectively.
- Lord Rooker stated that there is a recognised change in the roles of executive councillors and non - executive councillors, brought about by the RPA in England and Wales.
- The main provision of the new Bill disqualifies any member of the Northern Ireland Assembly from being elected, or from being a councillor.

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## BACKGROUND

### 1. CURRENT PROVISIONS

#### QUALIFICATION

Under section 3 of the Local Government Act (Northern Ireland) 1972<sup>1</sup> (the 1972 Act), to become a councillor a person must be:

- At least 21 years and a British citizen, or a citizen of the Irish Republic, the Commonwealth or another Member State of the European Union on both the day of nomination and election Day.

On the day they are nominated and on election day, they must meet at least **one** of the following qualifications:

- They are a registered local government elector;
- They have occupied, as owner or tenant, any land or premises in the local authority area during the whole of the previous 12 months;
- They have had their principal or only place of work in the local authority area; and/or
- They have lived in the local authority area during the whole of the previous 12 months.

#### DISQUALIFICATION

According to section 4 of the 1972 Act, a person is disqualified from election to the Council if he or she:

- Is employed by or holds a paid office under that local authority;
- Is bankrupt;
- Has been sentenced to a term of imprisonment of three months or more without the option of a fine, during the five years before the day of election; and/or
- Has been disqualified under any legislation relating to corrupt or illegal practices.

### 2. THE NEED FOR PROHIBITION ON DUAL MANDATES

The topic of dual mandates was debated by the Northern Ireland Assembly in March 2009, where members expressed their opinions on the advantages and disadvantages of holding two or more positions:

- Some members expressed the view that the roles of councillors and MLAs could be combined successfully<sup>2</sup>; in fact one Member went further to say that his role as an MLA was enhanced by his role as a councillor,

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<sup>11</sup> [The Local Government \(Northern Ireland\) Act 1972](#)

<sup>2</sup> [See speech by Michelle McIlveen. Assembly debate Tuesday 10 March 2009](#)

*Doing both jobs helps one to get a more rounded perspective of what is happening in one's area.*<sup>3</sup>

- Other members expressed their opinions on the difficulties with time management, and the workload with 'juggling' two roles. Some felt that for the deliverance of effective public representation, a single mandate was best.<sup>4</sup>

In connection with some of the above issues, expressed by members, in relation to the difficulties with time management and workload associated with holding two positions, the National Association of Councillors (Northern Ireland Region) has expressed its concern. They feel that as a result of the RPA, there may be an expected increase in the responsibilities and workload of councillors. This will in turn heighten the difficulties experienced by those who hold two positions. In their response to the RPA consultation, NAC NI stated:

*"The role of the Councillor confers certain vulnerabilities and no more so than in times of change. Increased responsibilities and increased workloads, which a rationalisation of the number of Councils will bring, compound these vulnerabilities. Developments in local government should recognise the changing role of the councillors as well as the time required to carry out the role effectively and include increased protection for councillors in the fulfilment of their role."*<sup>5</sup>

Since the local government review in England and Wales, Lord Rooker recognises the changes brought to the role of councillors. In his announcement in 2005 on the outcomes of the RPA, he stated:

*"The Local Government Act of 2000 in England and Wales has a significant impact on councillors' roles. It created executive councillors with large workloads and increased responsibility. Non-executive councillors are required to be more closely engaged in scrutinising the work of the executive and spending more time with and representing their local communities"*<sup>6</sup>.

## **OVERVIEW OF THE BILL**

This Private Members Bill was introduced to the Northern Ireland Assembly in February 2010, and began Second Stage in March. The main aim of the Bill is to introduce a prohibition on dual mandates.

The Bill consists of 3 clauses:

### **CLAUSE 1: DISQUALIFICATION**

This clause amends the Local Government Act (Northern Ireland) 1972 section 4 by introducing the provision which disqualifies any member of the Northern Ireland Assembly from being elected, or from being a councillor.

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<sup>3</sup> [See speech by Stephen Farry. Assembly debate Tuesday 10 March 2009](#)

<sup>4</sup> [See speeches by Carmel Hannah and David McNarry](#)

<sup>5</sup> [Response to the Review of Public Administration Consultation Document. National Association of Councillors Northern Ireland Region.](#)

<sup>6</sup> [Lord Rooker Outcome of the Review of Public Administration 22 November 2005](#)

CLAUSE 2: COMMENCEMENT

The provisions will come into force on the day of the first district council general elections, which take place after the Bill receives Royal Assent.

CLAUSE 3: SHORT TITLE

This clause states that the title of the Bill is 'The Local Government (Disqualification) (Amendment) Act (Northern Ireland) 2009'