

ACCOMPANYING DOCUMENTS

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Proposed National Assembly for Wales (Remuneration) Measure 2010

[AS PASSED]

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Proposed National Assembly for Wales (Remuneration) Measure

[AS PASSED]

A Measure of the National Assembly for Wales to establish a National Assembly for Wales Remuneration Board, to transfer to that Board the functions of making determinations in relation to the remuneration of Assembly members, the First Minister, Welsh Ministers, the Counsel General and Deputy Welsh Ministers, and for connected purposes.

1 National Assembly for Wales Remuneration Board

- (1) There is to be a National Assembly for Wales Remuneration Board (“the Board”).
- (2) The members of the Board are the Chair and four other members.
- (3) If there is a vacancy in the office of Chair, or the Chair is unable to act, the other members of the Board may appoint one of their number to be Acting Chair.
- (4) The quorum of the Board is three.
- (5) The Board may not make any determination under section 20(6), 24(1) or 53(7) of the Act unless the proposal to do so has been approved by at least three members of the Board.
- (6) Subject to subsections (4) and (5) and to section 2(2), the Board is to regulate its own procedure.
- (7) The validity of the proceedings of the Board is not affected by –
 - (a) a vacancy among the members, or
 - (b) a defect in the appointment of a member.

2 Independence, openness and inclusiveness

- (1) The Board is not, in the exercise of its functions, to be subject to the direction or control of the Assembly or of the Assembly Commission.
- (2) The Board must –
 - (a) generally act in an open and transparent manner, and
 - (b) publish on the Assembly’s website such information as will enable the public to be kept informed as to its activities.
- (3) Subsection (2) does not prevent the Board from considering a matter in private and from maintaining the privacy of its consideration of that matter, if, in the opinion of the Board, the nature of that matter makes it appropriate to do so.
- (4) The Board must, before exercising any of its functions, consult those of the following who are likely to be affected, unless the Board considers that there are circumstances that make it inappropriate to do so –

- (a) Assembly members,
 - (b) staff employed by Assembly members (or by groups of Assembly members),
 - (c) relevant trade unions, and
 - (d) such other persons as it considers appropriate.
- (5) The Board must, when consulting Assembly members, have regard to subsection (1).

3 Functions of the Board

- (1) Subject to subsections (3) and (4), the functions of the Board are those conferred on it by sections 20, 22, 24, 53 and 54 of the Act, as amended by this Measure.
- (2) The Board must exercise its functions with a view to achieving the objectives of—
- (a) providing Assembly members with a level of remuneration which—
 - (i) fairly reflects the complexity and importance of the functions which they are expected to discharge, and
 - (ii) does not, on financial grounds, deter persons with the necessary commitment and ability from seeking election to the Assembly,
 - (b) providing Assembly members with resources which are adequate to enable them to exercise their functions as Assembly members, and
 - (c) ensuring probity, accountability, value for money and transparency with respect to the expenditure of public funds.
- (3) The Board must keep under review the extent to which, having regard to—
- (a) experience gained from the operation of the Board's determinations,
 - (b) changes in the functions of Assembly members, and
 - (c) any other relevant changes in circumstances,
- those determinations appear to be achieving the objectives set out in subsection (2).
- (4) The Board may, from time to time, consider any other matter which is relevant to the discharge of its functions, either on its own initiative or at the written request of the Clerk.

4 Disqualification from membership of the Board

Schedule 1 makes provision as to the persons who are disqualified from being members of the Board.

5 Power to amend Schedule 1

- (1) This section has effect if the Assembly resolves that Schedule 1 be amended so as to—

- (a) add an office or description of person set out in paragraph 1 of that Schedule,
 - (b) remove such an office or description of person, or
 - (c) alter the description of such an office or person.
- (2) The Counsel General may, by order, amend Schedule 1 so as to give effect to such a resolution.
- (3) The power to make an order under subsection (2) is exercisable by statutory instrument.
- (4) The Counsel General must, upon being notified in writing by the Presiding Officer that the Assembly has passed a resolution under subsection (1) –
- (a) exercise the power conferred by subsection (2), and
 - (b) do so as soon as is reasonably practicable.

6 Appointment of members of the Board

- (1) The Chair and the other members of the Board –
- (a) are to be appointed by the Assembly Commission, and
 - (b) are to hold office for a fixed term of five years from the date of their respective appointments.
- (2) No person may be appointed to be a member of the Board if that person has already been appointed to be a member of the Board on two occasions.
- (3) Schedule 2 makes further provision about the appointment of members of the Board.

7 Termination of membership of the Board

The Chair or any other member of the Board ceases to hold office –

- (a) on expiry of the term for which that person was appointed,
- (b) if that person resigns by giving written notice to the Assembly Commission,
- (c) if that person becomes disqualified from being a member of the Board, or
- (d) if the Assembly so resolves upon a motion proposed on behalf of the Assembly Commission by a member of the Assembly Commission, provided that, if the resolution is passed on a vote, the number of votes cast in favour of the resolution is not less than two thirds of the total number of votes cast.

8 Terms and conditions

- (1) The Chair and the other members of the Board are to hold office in accordance with the terms and conditions of their appointment.
- (2) Those terms and conditions are to be determined by the Assembly Commission.
- (3) The Assembly Commission must pay the Chair and other members of the Board such amounts as they are entitled to receive under those terms and conditions.

9 Administrative support

The Assembly Commission must provide the Board with such administrative support as the Board reasonably requires to enable it to discharge its functions.

10 Meetings of the Board

- (1) Subject to subsections (2) and (3) and to section 13(7), (8) and (9) it is for the Board to decide when it is to meet.
- (2) The Board must meet at least once in each calendar year.
- (3) The Board must, if the Clerk requests it to do so, meet to consider a particular matter or matters relevant to its functions.
- (4) A request under subsection (3) must be in writing and must specify the matter or matters in question.

11 Annual report

The Board must, as soon as possible after the end of each financial year, lay before the Assembly an annual report on its activities, including its use of resources, during that financial year.

12 Determinations

- (1) Every determination made by the Board under section 20(6), 24(1) or 53(7) of the Act must be in writing.
- (2) The Board must communicate its determinations to the Assembly Commission.
- (3) The Assembly Commission must, as soon as is reasonably practicable after any determination is made by the Board –
 - (a) incorporate that determination, together with any other determinations which are to continue in force, into a single document, and
 - (b) publish that document.

13 Exercise of functions in relation to salaries

- (1) Subject to subsection (2), references in this section to a term of the Assembly are to the period which begins on the day on which a poll at an Assembly ordinary general election is held and which ends on the day before the day on which a poll at the next Assembly ordinary general election is held.
- (2) If –
 - (a) an Assembly extraordinary election is held, and
 - (b) section 5(5) of the Act applies,then, for the purposes of this section, a term of the Assembly ends on the day before the day on which the poll at that extraordinary general election is held, and the next term of the Assembly begins on the day on which that poll is held.
- (3) Subject to subsection (4) the Board may not make more than –

- (a) one determination which makes provision under section 20(1) of the Act (payment of salaries to Assembly members), and
- (b) one determination which makes provision under section 53(1) of the Act (payment of salaries to the First Minister, Welsh Ministers, the Counsel General and Deputy Welsh Ministers),

which is to have effect during each term of the Assembly.

- (4) Subsection (3) does not apply if the Board is of the opinion that there are exceptional circumstances which make it just and reasonable that the restrictions imposed by subsection (3) should not apply.
- (5) If the Board forms an opinion of the kind referred to in subsection (4) it must state in writing its reasons for having done so, and communicate that statement to the Assembly Commission at the same time as the determination to which it relates.
- (6) The Assembly Commission must lay before the Assembly any statement communicated to it under subsection (5) at the same time as it lays before the Assembly the determination to which it relates.
- (7) The Board must, in relation to each term of the Assembly, make a determination which makes provision under section 20(1) of the Act and which is to have effect, whenever made, from the beginning of that term.
- (8) The Board must, in relation to each term of the Assembly, make a determination which makes provision under section 53(1) of the Act and which is to have effect, whenever made, from the beginning of that term.
- (9) The Board must, so far as is reasonably practicable, make the determinations referred to in subsections (7) and (8) before the end of the term of the Assembly which precedes that in relation to which they are to have effect but if it fails to do so the Assembly Commission must –
 - (a) until such determinations are made, continue to make payments in accordance with the determinations which had effect in relation to that preceding term of the Assembly, and
 - (b) when such determinations have been made, adjust any subsequent payments so as to make good any under-payment or recover any over-payment, as the case may be.

14 Exercise of functions in relation to reimbursement of costs incurred in employing staff

- (1) This section applies to any provision for the reimbursement of costs incurred by Assembly members (or by groups of Assembly members) in employing staff.
- (2) If the Board has made a determination which contains any provision to which this section applies, the Board may not, by a subsequent determination, make any modification to that provision in relation to any period before the end of the financial year in relation to which (or to a part of which) that provision first takes effect.

- (3) Subsection (2) does not apply if the Board is of the opinion that there are exceptional circumstances which make it just and reasonable that the restrictions imposed by subsection (2) should not apply.
- (4) If the Board forms an opinion of the kind referred to in subsection (3) it must state in writing its reasons for having done so, and communicate that statement to the Assembly Commission at the same time as the determination to which it relates.
- (5) The Assembly Commission must lay before the Assembly any statement communicated to it under subsection (4) at the same time as it lays before the Assembly the determination to which it relates.

15 Exercise of functions: general

- (1) The Board must, on the first occasion on which it proposes to make a determination in relation to any matter, have regard to the recommendations of the National Assembly for Wales Independent Review Panel on arrangements for the financial support of Assembly members published on the 6th July 2009, so far as those recommendations are relevant to that matter.
- (2) If, when it makes a determination to which subsection (1) applies, the Board includes in that determination provision which, in any respect, departs from those recommendations, the Board must state in writing its reasons for doing so and communicate that statement to the Assembly Commission at the same time as the determination to which it relates.
- (3) The Assembly Commission must lay before the Assembly any statement communicated to it under subsection (2) at the same time as it lays before the Assembly the determination to which it relates.
- (4) Subject to subsection (1) the Board may, when it proposes to make a determination in relation to any matter, have regard to those recommendations insofar as they appear to the Board to continue to be relevant to that matter.

16 Amendments to the Government of Wales Act 2006

The Act is amended in accordance with Schedule 3.

17 Amendment to the Freedom of Information Act 2000

- (1) The Freedom of Information Act 2000 (c.36) is amended as follows.
- (2) In Part VI of Schedule 1 (Other Public Bodies and Offices: General), insert, in the appropriate place—
“The National Assembly for Wales Remuneration Board.”.

18 Interpretation

In this Measure—

- (a) “The Act” means the Government of Wales Act 2006 (c.32),

- (b) any other expressions not otherwise defined in this Measure have the same meaning as in the Act.

19 Transitional and saving provision

- (1) The coming into force of section 16 does not affect any determination or direction made under the provisions of—
 - (a) sections 20, 24 or 53 of the Act, or
 - (b) sections 16, 18 or 34A of the Government of Wales Act 1998 (c.38).
- (2) Any provision made by such a determination or direction continues in force as if made by the Board under sections 20, 24 or 53 (as the case may be) of the Act as amended by this Measure and any references to the Assembly or to the Assembly Commission in such a determination or direction are, insofar as is necessary to give effect to this subsection, to be construed as references to the Board.

20 Short Title and Commencement

- (1) This Measure may be referred to as the National Assembly for Wales (Remuneration) Measure 2010.
- (2) Sections 1, 4, 5, 6, 7, 8, 9, 12, 17, 18 and this section come into force on the day after that on which this Measure is approved by Her Majesty in Council.
- (3) The remaining provisions of this Measure come into force on the day after that on which notice under subsection (4) is laid before the Assembly.
- (4) The Clerk must, as soon as is reasonably practicable after the first appointments of a Chair and four other members of the Board have all been made, lay before the Assembly notice of—
 - (a) the fact that the appointments in question have been made,
 - (b) the names of the persons appointed, and
 - (c) the fact that by reason of the laying of the notice all provisions of this Measure, (other than those already in force) will come into force on the day after that on which the notice is laid.

SCHEDULE 1
(introduced by section 4)

DISQUALIFICATION FROM MEMBERSHIP OF THE BOARD

- 1 The following persons are disqualified from being members of the Board –
 - (a) an Assembly member,
 - (b) the Counsel General (if not an Assembly member),
 - (c) a candidate for election as an Assembly member,
 - (d) a person whose name could, if the seat of a regional Assembly member became vacant, be required to be notified to the Presiding Officer under section 11 of the Act (electoral region vacancies),
 - (e) a member of the European Parliament, House of Commons, House of Lords, Scottish Parliament or Northern Ireland Assembly,
 - (f) a member of the staff of the Assembly,
 - (g) a member of the staff of the Welsh Assembly Government,
 - (h) a person employed by an Assembly member or by a group of Assembly members for the purpose of assisting that member or the members of that group to perform the functions of an Assembly member,
 - (i) the Auditor General for Wales,
 - (j) the National Assembly for Wales Commissioner for Standards,
 - (k) a member of the Assembly Commission Corporate Governance Committee,
 - (l) a person holding the appointment of Independent Adviser to the Assembly Commission,
 - (m) a person who was a member of either of the panels appointed by the Assembly Commission to review the pay and allowances of Assembly members in pursuance of the Assembly Commission's resolutions of 4 July 2007 and 8 May 2008,
 - (n) a person holding the appointment of Non-Executive Director of the Welsh Assembly Government.
- 2 For the purposes of paragraph 1(c) a person becomes a candidate for election as an Assembly member –
 - (a) on the day on which that person is declared to be a candidate (whether by the person in question or by others), or
 - (b) on the day on which that person is nominated as a candidate at an Assembly election,whichever is the earlier.
- 3 When determining, for the purposes of paragraph 1(d), whether the name of a person could be required to be notified to the Presiding Officer under section 11 of the Act, the requirements of paragraphs (b) and (c) of subsection (3) of that section are to be disregarded.

SCHEDULE 2
(introduced by section 6(3))

APPOINTMENT OF MEMBERS OF THE BOARD

- 1 The Clerk must make arrangements for selecting candidates for appointment as Chair, and as other members of the Board.
- 2 Those arrangements may –
 - (a) be revised from time to time, and
 - (b) make different provision for different appointments and for appointments made under different circumstances.
- 3 The Clerk must ensure that those arrangements –
 - (a) do not involve participation by any person who appears to the Clerk to be likely to be affected by the exercise by the Board of any of its functions, or any person connected with such a person, and
 - (b) subject to sub-paragraph (a), have due regard to the principle that there should be equality of opportunity for all people.
- 4 The Clerk must not give effect to the arrangements in relation to a particular appointment unless they have first been published on the Assembly's website and continue to be so published whilst the process of selecting a person for that appointment is taking place.
- 5 The Assembly Commission must appoint as Chair, or as a member of the Board, as the case may be, any person selected, in accordance with such arrangements, for appointment to that office.
- 6 Paragraph 5 does not apply if it appears to the Assembly Commission that the person in question is disqualified from membership of the Board under section 4.

SCHEDULE 3
(introduced by section 16)

AMENDMENTS TO THE GOVERNMENT OF WALES ACT 2006

Section 20

- 1 In section 20(1) for “The Assembly must make provision” substitute “Provision must be made”.
- 2 In section 20(2) for “The Assembly may make provision” substitute “Provision may be made”.
- 3 In section 20(3) for “The Assembly may make provision” substitute “Provision may be made”.
- 4 For section 20(6) substitute—
“(6) Provision under this section is to be made by determination made by the Board.”.
- 5 After section 20(6) insert—
“(7) The Assembly Commission must give effect to any determination made by the Board under this section.
(8) In this section (and in sections 22, 24, 53 and 54) “the Board” means the National Assembly for Wales Remuneration Board established by section 1 of the National Assembly for Wales (Remuneration) Measure 2010 (nawm -).”.

Section 22

- 6 In section 22(2) for “The Assembly” substitute “The Assembly Commission” and omit “(and may, in particular, do so by requiring it to be published by the Assembly Commission)”.
- 7 For section 22(3) substitute—
“(3) The Assembly Commission must lay before the Assembly every determination made by the Board under section 20(6) as soon as is reasonably practicable after it is made.”.

Section 24

- 8 In section 24(1) omit “as the Assembly from time to time determines” and substitute “as the Board from time to time determines”.
- 9 Omit subsection 24(4).
- 10 For subsection 24(6) substitute—
“(6) The Assembly Commission must lay before the Assembly every determination made by the Board under section 24(1) as soon as is reasonably practicable after it is made.”.

11 After section 24(6) insert—

“(7) The Assembly Commission must ensure that information concerning the sums paid under this section is published for each financial year.”.

Section 53

12 In section 53(1) for “The Assembly must make provision” substitute “Provision must be made”.

13 In section 53(2) for “The Assembly may make provision” substitute “Provision may be made”.

14 In section 53(3) for “The Assembly may make provision” substitute “Provision may be made”.

15 For section 53(7) substitute—

“(7) Provision under this section is to be made by determination made by the Board.”.

16 After section 53(7) insert—

“(8) The Assembly Commission must give effect to any determination made by the Board under this section.”.

Section 54

17 In section 54(2) for “The Assembly” substitute “The Assembly Commission” and omit “(and may, in particular, do so by requiring it to be published by the Assembly Commission)”.

18 For section 54(3) substitute—

“(3) The Assembly Commission must lay before the Assembly every determination made by the Board under section 53(7) as soon as is reasonably practicable after it is made.”.