



Northern Ireland
Assembly

Research and Information Service Bill Paper

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Assembly Members (Reduction of Numbers) Bill 2016

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This paper provides background to the legislation to reduce the number of members of the Assembly. It looks at how the Bill might impact on the ability of Assembly members to effectively carry out their parliamentary duties.

Key Points

- The Assembly Members (Reduction of Numbers) Bill seeks to reduce the number of Assembly members returned from each constituency from six to five. This will mean an overall reduction in the number of MLAs from 108 to 90.
- The provisions of the Bill are due to take effect at the next election following that scheduled for May 2016.
- The link between Assembly and Westminster constituencies is maintained – any change in the number of Westminster constituencies as a result of future boundary reviews will directly impact on the number of Assembly members.
- Any reduction in the number of members is likely to have an impact on the effectiveness of members to discharge their parliamentary duties. This will be offset to some extent by the reduction in the number of Executive departments, but there may be issues around the efficient functioning of the committee system.
- This could be exacerbated if the number of Assembly Members reduces further as a result of Westminster boundary changes.
- The Equality Impact Assessment in the Explanatory Memorandum does not raise any potential equality issues. However, the impact on inclusiveness and political representation was a theme that emerged in the AERC review, with concerns expressed that reducing the number of members could impact on the ability of smaller parties, independents and women to win seats.

Executive Summary

The Assembly Members (Reduction of Numbers) Bill was introduced in the Assembly on 12 January 2016. The Bill would reduce the number of Assembly members returned in each constituency from six to five, thereby reducing the number of Assembly members from 108 to 90. The Northern Ireland (Miscellaneous Provisions) Act 2014 moved the number of Assembly members from an excepted to a reserved matter. This allows the Assembly to legislate in this area with the consent of the Secretary of State. The Fresh Start agreement of November 2015 contained a commitment to reduce the numbers from 108 to 90 and this Bill seeks to give legal effect to that.

The provisions of the Bill would take effect following the next Assembly election after that scheduled for May 2016. Therefore if the next Assembly runs for its full mandate then 90 members would be returned at the 2021 election. However if an extraordinary election occurs in the period following the May 2016 election and the 2021 election, then 90 members will be returned at that election.

The Assembly and Executive Review Committee examined the issue of the number of Assembly members in 2011/12. During its inquiry, it took evidence from a range of stakeholders including political parties and academics. It could not reach a consensus on a way forward at that time.

Section 33 of the Northern Ireland Act 1998 provides that each parliamentary constituency in Northern Ireland will return six members to the Northern Ireland Assembly.

Assembly constituencies are the same as those used for UK Parliamentary elections and this Bill does not make any alteration to this relationship – they remain linked. This is different to the situation in the Scottish Parliament and National Assembly for Wales, where their constituencies are ‘decoupled’ from Westminster. This means that any future changes to constituency boundaries for elections to the UK Parliament do not impact on constituencies used for elections to those devolved institutions.

In Northern Ireland, any future revisions to the parliamentary constituency boundaries will impact directly on the Assembly. For example, if the number of parliamentary boundaries was reduced from 18 to 16 in time for the 2020 UK Parliamentary election, then the 2021 Assembly election would result in 80 members being returned, rather than 90 i.e. $16 \times 5 = 80$.

It had appeared that Northern Ireland would lose two constituencies in time for the 2015 UK Parliamentary election as part of an overall UK reduction in MPs from 650 to 600, but the then coalition government could not agree on the implementation of this policy. The current Conservative government has stated its intention to proceed with this change and the next review of constituency boundaries is due for completion in

2018. It cannot be stated with certainty at this time what the outcome will be for Northern Ireland, but a reduction in numbers is a possibility.

The Equality Impact Assessment in the Explanatory Memorandum states that the Bill does not raise any equality issues. However, a move from six to five member constituencies could reduce the ability of smaller parties, independents and women to obtain a seat.

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1 Introduction

This paper provides information on the proposal contained in the Assembly Members (Reduction of Numbers) Bill to reduce the number of Assembly members (MLAs) from 108 to 90, effective from the next Assembly election following the one scheduled for May 2016. It places the Bill in the context of previous proposals to reduce the number of MLAs, and discusses the potential implications for the future operation of the Assembly.

Discussions on the size of the Northern Ireland Assembly date back a number of years, and there have been previous commitments to reduce the number of Members. In 2011/12 the Assembly and Executive Review Committee (AERC) examined the issue in detail, receiving evidence from stakeholders including political parties and academics. AERC could not reach a consensus on the issue but its report included a table setting out a range of scenarios involving different numbers of members and departments¹.

The 2014 Stormont House Agreement stated that: “The number of Assembly members should be reduced to five members per constituency, or such other reduction as may be agreed, in time for the 2021 Assembly election, and the Assembly will legislate accordingly”².

However, it was not until the Fresh Start Agreement of November 2015 that the Office of the First Minister and deputy First Minister was in a position to bring forward legislation. Subsequently, the Assembly Members (Reduction of Numbers) Bill 2016 was introduced in the Assembly on 12 January 2016.

The Research and Information Service (RaISe) produced a number of papers to inform the AERC’s consideration of this issue. These papers are available in the appendix of the AERC report or separately on the Northern Ireland Assembly website³.

2 From 108 to 90 members

Belfast Agreement and Northern Ireland Act 1998

The Belfast (Good Friday) Agreement states that “A 108 member Assembly will be elected by PR-STV from existing Westminster constituencies”.

The Northern Ireland Act 1998, which gave legal effect to the Agreement, states that:

¹ Assembly and Executive Review report Number of Members of the Legislative Assembly, June 2012:

<http://www.niassembly.gov.uk/assembly-business/committees/assembly-and-executive-review/reports/number-of-members-of-the-northern-ireland-legislative-assembly/>

² Stormont House Agreement, December 2014: <https://www.gov.uk/government/publications/the-stormont-house-agreement>

³ See papers from 2011 at: <http://www.niassembly.gov.uk/assembly-business/committees/assembly-and-executive-review/research-papers-2011/>

(1) The members of the Assembly shall be returned for the parliamentary constituencies [Westminster] in Northern Ireland

(2) Each constituency shall return six members⁴

As there are currently 18 Westminster Parliamentary constituencies in Northern Ireland, there are, as a direct consequence, 108 MLAs⁵.

Northern Ireland (Miscellaneous Provisions) Act 2014

The 1998 Act can only be amended by the UK Parliament, but the Northern Ireland (Miscellaneous Provisions) Act 2014 moved the size of the Assembly from an excepted matter to a reserved matter.

As a reserved matter, any legislative provision put forward by the Assembly in this regard would require the consent of the Secretary of State. Once that consent is given, the Government needs to lay a draft Order in Council before Parliament amending section 33(2) to give effect to the Assembly's decision. Section 6 requires that a Bill making provision for such a change must have cross community support at the point at which a decision to pass or reject the Bill is taken in the Assembly. If any such Bill does not have cross community support, the Secretary of State is prohibited from submitting the Bill for Royal Assent⁶.

Section 6 of the 2014 Act also provides that any Assembly legislation that reduces the size of the Assembly cannot make provision for different numbers of members to be returned for different constituencies. It also limits the extent of any change in the number of members of the Assembly returned for each constituency to not fewer than five and not more than six members per constituency⁷.

Alliance Party motion

On 23 November 2015 the Assembly debated the Alliance Party motion:

That this Assembly notes that the Stormont House Agreement contains a deadline to reduce the number of MLAs from 108 to 90 by 2021 and the number of Executive Departments in time for the 2016 Assembly term; believes that there is an opportunity to reform the size of the Assembly and the number of Executive Departments to the same timescale; and calls on the Executive to ensure any legislation will see that the reduction in the number of MLAs takes places in time for the 2016 elections.

The debate came a week after the Fresh Start Agreement and this was recognised by the proposer of the motion, who questioned why the reduction in MLAs could not be

⁴ Section 33 of the Northern Ireland Act 1998

⁵ The Parliamentary Voting System and Constituencies Act 2011 decoupled the National Assembly for Wales' seats from Westminster. The Scottish Parliament (Constituencies) Act 2004 decoupled Scottish Parliamentary seats from Westminster.

⁶ As above

⁷ Explanatory Notes Northern Ireland (Miscellaneous Provisions) Act 2014

achieved within the same timescale as the reduction in the number of government departments, which will come into force immediately after the 2016 election.

The potential for a reduction in the number of parliamentary boundaries was also referenced, while other contributors spoke of the need to make sure the Assembly was as inclusive and representative as possible, particularly in relation to increasing the number of female MLAs.

The motion was negatived⁸.

Ministerial briefing

Junior Ministers from the Office of the First Minister and deputy First Minister briefed the AERC on 12 January on the provisions of the Bill and the need for accelerated passage. The Ministers explained that a general consensus had been reached within the Assembly on the need to reduce the number of members and in fact the Alliance Party had tabled a motion to this effect that had been debated on 23 November. The Ministers also stated that accelerated passage was not the Department's preferred method, but that it was required given the requirement to pass the Bill into law before the end of the current mandate.

In response to a question about the possible impact of future boundary reviews, the Junior Ministers responded that it was impossible to know what the outcome of any future review might be, but that Northern Ireland would remain over-represented, when compared to other devolved legislatures, on a member per head of population basis.

The Junior Ministers also stated that the Secretary of State had given her consent on 10 December for the Assembly to proceed with the Bill.

Equality issues

The Equality Impact Assessment states: "The Bill effects an institutional reform and does not introduce, revise or abolish any policies, functions or services, and it is not anticipated to have any equality impacts on any of the nine categories specified in section 75 of the Northern Ireland Act 1998⁹".

The AERC report included submissions from stakeholders that raised the issue of how a reduction in MLAs might impact on inclusiveness and political representation. For example, a move from six to five member constituencies could, it was argued, make it more difficult for smaller parties and independents to obtain seats.

Furthermore, the potential impact on female representation was raised, with concerns expressed that a reduction could make it more difficult to increase the number of female MLAs within the Assembly.

⁸ <http://aims.niassembly.gov.uk/officialreport/report.aspx?&eveDate=2015/11/23&docID=250209>

⁹ Explanatory Memorandum accompanying the Bill.

Previous research focusing on the Republic of Ireland showed that the percentage of female candidates was higher in five seat constituencies compared to those with three seats:

As district magnitude increased, the percentage of female candidates increased significantly. Women comprised just 9 per cent of Fine Gael candidates in 3-seat constituencies, but 15 per cent and 22 per cent of candidates in 4 and 5-seat constituencies were women. Fianna Fáil's selection of women candidates were more evenly spread throughout the various constituency sizes, although they did make up a slightly higher percentage of their candidates in 4 and 5-seat constituencies. Half of all Labor women candidates stood for election in 4-seat constituencies, making up 31 per cent of those candidates. Females actually comprised a higher percentage of Labor candidates in 3-seat (26 per cent) as opposed to 5-seat constituencies (20 per cent). Green Party women candidates were more likely to contest 3-seat constituencies. Constituency size appears to have played a factor in Sinn Féin's candidacy strategy with women making up a considerably lower percentage of their candidates in 3-seat constituencies (7 per cent) as opposed to 5-seat constituencies (36 per cent). Overall, women accounted for 14 per cent of party candidates in constituencies with 3 seats, 19 per cent of those with 4 seats and 22 per cent of those with 5 seats. At least in terms of candidates that competed in the 2011 Irish general election, it appears that parties are more likely to field more female candidates in districts or constituencies where more representatives are elected¹⁰.

Whilst the observations cited above relate to only one jurisdiction, they do, nevertheless, suggest a potential link between district magnitude (number of seats per constituency) and gender representation. This potential link does not, however, appear to have been considered by OFMDFM, as part of its equality proofing of the legislation.

Issues for consideration

Is there a case to be made for decoupling Assembly constituencies from Westminster constituencies? Doing so would mean that any future changes to Westminster boundaries would not automatically impact on the number of Assembly members.

Should further consideration be given to how the proposal to move from six to five members per constituency could impact on political representation in terms of smaller parties, independents and women?

¹⁰ Claire McGing et Timothy J. White, *Gender and Electoral Representation in Ireland*, *Études irlandaises*, 37-2 | 2012, 33-48., available at: <http://etudesirlandaises.revues.org/3134>

The Parliamentary Voting System and Constituencies Act 2011

The Parliamentary Voting System and Constituencies Act 2011 contained a provision to reduce the number of parliamentary constituencies in the UK from 650 to 600. Following disagreements within the Conservative/Liberal Democrat coalition government, this change was not implemented and the review of the 2013 review of constituency boundaries was halted. The current Conservative government, however, has restated its commitment to reduce the number to 600¹¹, with the changes likely to be in place for the 2020 parliamentary election. The next review must report in September 2018¹².

The 2014 Miscellaneous Provisions Act and the 2016 Assembly Bill do not alter the relationship between Assembly constituencies and Westminster constituencies – they remain linked. The number of constituencies in Northern Ireland could change following the next review of parliamentary boundaries, perhaps falling to 16, as would have been the case if the 2013 review had been completed and its recommendations implemented. If this was to happen, and no other changes took place, the number of MLAs would reduce from 90 to 80.

3 Potential impact of the reduction of the number of members on the work of the Assembly

Assembly & Executive Review Committee

As part of the Terms of Reference for its consideration of the issue, the AERC examined the “number of MLAs required for the Assembly to function effectively and for those elected individuals to discharge their full range of constituency and parliamentary functions”¹³.

The Committee listed the key functions as including:

- Representing the key interests of the people
- Holding the Executive to account
- Advising and assisting the Executive
- Scrutinising and approving the budget

¹¹ <http://www.telegraph.co.uk/news/11593496/New-Commons-boundaries-top-Conservative-government-agenda.html>

¹² See House of Commons Library briefing paper *Constituency boundary reviews and the number of MPs*, December 2015 and research papers in AERC report *Review of the Number of Members of the Northern Ireland Assembly...*

¹³ AERC report

- Making and passing legislation

The Committee sought the views of political parties and other stakeholders on five key issues:

- 1. Whether the statutory link between Westminster and Northern Ireland constituencies should be removed and the implications of removing or retaining this link;*
- 2. The implications of the forthcoming reduction (on the implementation of the Parliamentary Voting System and Constituencies Act 2011) and any further reduction in the number of MLAs;*
- 3. The reduced number of MLAs required to ensure that the effectiveness of the Assembly in delivering its key functions is maintained, consistent with the safeguards on inclusivity;*
- 4. Proposals to mitigate the impact of reducing the number of MLAs on the effectiveness of the Assembly in delivering its key functions, including in particular, proposals to ensure a robust and effective committee system; and*
- 5. The reduction in the number of NI departments and associated re-allocation of functions which will ensure the effectiveness of the Executive functions are maintained.*

The Committee could not reach a consensus on a future scenario regarding the number of Assembly members, but its report contains detailed information on the committee's consideration of the issue, including the views of various stakeholders.

Committees

The current committee system in the Assembly is set out in the Belfast (Good Friday) Agreement, Northern Ireland Act 1998 and Standing Orders. It reflects the need to ensure balanced representation for political parties, given the unique political situation in Northern Ireland.

There are two main types of committees within the Assembly: statutory and standing. Paragraph 8 of Strand One of the Belfast (Good Friday) Agreement states:

There will be a Committee for each of the main executive functions of the Northern Ireland Administration. The Chairs and Deputy Chairs of the Assembly Committees will be allocated proportionally, using the d'Hondt method. Membership of the Committees will be in broad proportion to party strengths in the Assembly to ensure that the opportunity of Committee places is available to all Members¹⁴.

¹⁴ Belfast (Good Friday) Agreement 1998

The current structural relationship between the Assembly's statutory (departmental) committees and Northern Ireland departments is therefore relatively straightforward - there is one committee for each Executive department. However section 29b of the 1998 Act would appear to allow for alternative arrangements in that it enables a "committee to be so established either in relation to a single Northern Ireland Minister or in relation to more than one". Therefore it appears to allow for the possibility of committees with cross-cutting remits¹⁵.

Standing Orders 47, 48 and 49 of the Assembly detail the composition and remit of statutory committees. Standing Order 48 sets out the process for allocating Chairs and Deputy Chairs to the Committees. Standing Order 48(2) confers on statutory committees the powers and responsibilities set out in Paragraph 9, Strand One of the Belfast (Good Friday) Agreement. Again, it allows for "each statutory committee (to) carry out such role in relation to one or more Ministerial Portfolios". Standing Order 48(3) ensures that: "The other members (all those except Chair and Deputy Chair) of a statutory committee shall be determined by the Assembly subject to the requirement upon the Speaker to ensure that all members who do not hold Ministerial or junior Ministerial office are offered at least one statutory committee place".

Standing Order 49(2)(a) states "that each statutory committee will consist of 11 members including the chairperson and deputy chairperson". Standing Order 49(5) states: "The quorum of every statutory committee shall be five, except when no decision is taken or question put to the committee, when the quorum shall be four. A quorum shall be deemed to be present where members are linked by a video-conferencing facility".

Although Ministers and Junior Ministers cannot be a Chair or Deputy Chair of a committee, there is no statutory bar to prevent them serving as ordinary members of a committee. However, the convention to date has been that they do not sit on committees.

Ratio of members to committee places

This section looks at scenarios whereby the number of MLAs and/or Departments are reduced. The following scenarios have been employed:

- 90 Members and 9 Departments
- 96 Members and 12 Departments
- 96 Members and 8 Departments
- 80 Members and 12 Departments
- 80 Members and 8 Departments

¹⁵ Section 29 of the Northern Ireland Act 1998

Within each of these scenarios the impact on statutory committees with a membership of 11, 9 and 7 members is considered. The first line of the table presents the current position. The next scenario presents that which will result from the enactment of the Bill. Other scenarios are presented for illustrative purposes.

Furthermore, the table reflects the convention that Ministers and junior Ministers do not serve on committees.

Table 1: Scenarios involving a reduction in Members and/or Executive Departments

Members	Departments/ Committees	Committee size	Ministers, Junior Ministers and Speaker	Remaining MLAs	Committee places	Ratio
108	12	11	16	92	132	1.43
90	9	11	13	77	99	1.28
90	9	9	13	77	81	1.05
90	9	7	13	77	63	0.81
80	9	11	13	67	99	1.47
80	9	9	13	67	81	1.20
80	9	7	13	67	63	0.94
96	12	11	16	80	132	1.65
96	12	9	16	80	108	1.35
96	12	7	16	80	84	1.05
96	8	11	12	84	88	1.05
96	8	9	12	84	72	0.86
96	8	7	12	84	56	0.67
80	12	11	16	64	132	2.06
80	12	9	16	64	108	1.69
80	12	7	16	64	84	1.31
80	8	11	12	68	88	1.29
80	8	9	12	68	72	1.06
80	8	7	12	68	56	0.82

From the above table three distinct groups of ratios can be identified. Firstly, there are those that are an increase on the present ratio of 1.43. Moving to these scenarios would place more pressure on MLAs than is currently the case.

The second group is that where the ratios fall below 1.00. If one interprets Paragraph 8 of Strand One of the Belfast Agreement as meaning that all members who are

available to take up committee places (i.e. excluding the Speaker and Executive Ministers/Junior Ministers) must be offered such a place, then scenarios where the ratio of committee places to available Members drops below 1.00 (figures marked with an asterisk in the above table) would seem to be problematic.

Finally, the third group is that where the ratio is above but close to 1.00. This could be said to be an 'ideal' scenario in the member to committee ratio.

Table 2: Statutory committee meetings: 2007 – 2011 and 2011 - January 2016

Committee	2007-2011	2011 - Jan 2016
Agriculture & Rural Development	168	168
Culture, Arts & Leisure	159	173
Education	146	175
Employment & Learning	133	149
Enterprise, Trade & Investment	132	158
Environment	146	170
Finance & Personnel	141	182
Health, Social Services & Public Safety	138	156
Justice	42	175
Regional Development	157	157
Social Development	139	193
OFMDFM	135	162
Total	1,636	2,018

Membership of multiple committees

Standing Order 48(3) states:

A statutory committee shall have one chairperson, one deputy chairperson appointed in accordance with this Standing Order. The other members of a statutory committee shall be determined by the Assembly subject to the requirement upon the Speaker to ensure that all members who do not hold Ministerial or junior Ministerial office are offered at least one statutory committee place¹⁶.

Given that each statutory committee must have 11 Members, the majority of MLAs sit on at least two committees. The following table shows the number of MLAs sitting on multiple committees **using figures from 2011**. Ministers and Junior Ministers have been excluded. For the purposes of this table, figures for both statutory and standing committees have been included. The Speaker is included as Chair of the Business Committee.

¹⁶ Standing Orders of the Northern Ireland Assembly.

Table 3: Membership of multiple committees (statutory and standing) in the Northern Ireland Assembly - 2011

Number of committees	Number of MLAs
4	2
3	15
2	61
1	15
0	0

Table 4: Membership of statutory committees in the Northern Ireland Assembly - 2011

Number of committees	Number of MLAs
2	42
1	48
0	2

From the above table, it is clear that membership of at least two committees is normal practice for many MLAs. The issue that needs to be considered is the extent to which this commitment impacts on other aspects of a Member's duties.

Report of the Committee Review Group

As part of its review of the number of Assembly members, the Chairperson of the AERC wrote to the Chairpersons' Liaison Group in May 2012. The letter highlighted AERC's "discussion on some issues regarding the Committee System and the various opinions and views expressed by stakeholders, including the need for a fundamental review of the Committee system if there is to be a change in the size of the Assembly, as follows:¹⁷"

A review of the Committee system may be beneficial if there are any changes to the size of the Assembly. If such a review is undertaken, some of the factors that it should take into account are:

- *That, with a reduction in the number of MLAs and possibly alongside this, a reduction in the number of Government departments, a fundamental review of the current committee system must be undertaken;*
- *There are linkages between the number of committees, the overall effectiveness of the committee system, the number of MLAs and the number of Government departments. Therefore, it may be prudent to consider these issues when undertaking such a review;*
- *The possibility of establishing a committee system that includes thematic committees (rather than the current statutory committee system that aligns*

¹⁷ AERC report

with NI departments), including a central budget committee, may warrant consideration;

- *The practice of scheduling plenary business alongside committee business (meetings) may merit review – possibly gaining effectiveness by scheduling of plenary and committee work;*
- *The merits of formalising CLG through statute and/or through Standing Orders; and*
- *The potential to increase the effectiveness of legislative scrutiny in the Assembly by allowing Statutory Committees to make amendments to a Bill.*¹⁸

The Terms of Reference for the review were agreed by the Assembly's Chairpersons' Liaison Group and undertaken by a Committee Review Group (CRG) which was established specifically for the task. Below is a summary of the CRG's main conclusions in relation to committee structure:

CRG is largely content with the overall architecture of the current committee system. Mindful of the prevailing political and constitutional climate about proposals to reduce the number of MLAs and reorganise and reduce the number of NI departments, **CRG has concluded that it would not be prudent at this stage to propose any fundamental changes to the committee system but that this should be reviewed in 2015 in advance of the anticipated changes in 2016.** (*emphasis added*)

CRG recommends that the link between each Executive department and a single statutory committee should be retained. In maintaining this structure, CRG recognises that this consequently places some limits on the scope and extent of other proposals that it can recommend at this time.

Chairpersons note that the current composition of committees is in broad proportion to party strengths in the Assembly. CRG therefore recommends that statutory committee membership should be retained at 11.

While concluding that membership should be retained at 11, CRG recommends that committee membership should be reviewed as part of the wider discussions about the number of MLAs and departments¹⁹.

4 The Bill

The Bill is short, consisting of two clauses. It amends section 33 of the Northern Ireland Act 1998 by changing the number of members to be returned for each Westminster constituency at Assembly elections from six to five at the next Assembly election following that scheduled for May 2016.

¹⁸ As above

¹⁹ Report of the Committee Review Group: <http://www.niassembly.gov.uk/globalassets/documents/reports/committee-review-group/nia-135-11-15.pdf>