

**EXPLANATORY MEMORANDUM TO**

**THE MEMBERS OF THE EUROPEAN PARLIAMENT (SALARIES OF MEMBERS OF THE GREATER LONDON AUTHORITY) ORDER 2011**

**2011 No. 3048**

1. This explanatory memorandum has been prepared by the Department for Communities and Local Government and is laid before Parliament by Command of Her Majesty.

2. **Purpose of the instrument**

To amend the reference to section 1 of the European Parliament (Pay and Pensions) Act 1979 within section 25 of the Greater London Authority Act 1999 (“the GLAA 1999”), by adding a reference to Article 9 of the Statute for Members of the European Parliament.

3. **Matters of special interest to the Joint Committee on Statutory Instruments**

None.

4. **Legislative Context**

4.1 Section 25 of the GLAA 1999 enables the Secretary of State by order to make provision about the abatement of salaries by GLA members to whom remuneration is payable:

- pursuant to a resolution of either Houses of Parliament related to remuneration of members of that House;
- under section 1 of the European Parliament (Pay and Pensions) Act 1979; or
- in respect of their membership of any other public body as specified in the order.

However, the legislative basis for the remuneration of MEPs has been altered by the adoption of Decision 2005/684/EC. This adopted the Statute for Members of the European Parliament (‘the Statute’), which relates to MEPs’ pay, allowances and other conditions. In order to implement the Statute, amendments were made to domestic legislation, and, more specifically, to the European Parliament (Pay and Pensions) Act 1979 (‘the 1979 Act’).

4.2 It was originally envisaged that the 1979 Act would be repealed, allowing for the provisions of the Statute to take over. However, Article 25(1) of the Statute enables MEPs who belonged to the European Parliament (‘EP’)

before the entry into force of the Statute, and who were re-elected, to opt to fall under national provisions previously in force in relation to salary, allowances and pensions for the entire duration of their membership of the EP. The UK needed to have domestic legislation in place to enable those MEPs to benefit from this provision. The 1979 Act was therefore amended rather than repealed.

4.3 The amendments were made using powers conferred by s2(2) of the European Communities Act 1972 (“ECA 1972”). The Secretary of State was designated by the European Communities (Designation) (No. 4) Order 2008 in this respect, ‘in relation to the European Parliament, including elections to the Parliament and members of the Parliament’.

4.4 Decision 2002/772/EC introduced a prohibition on the holding of a dual mandate, that is, holding office as an MEP and a member of a national parliament simultaneously. This prohibition applies solely to serving on national parliaments. It does not, therefore, preclude an MEP from also holding office as a member of the GLA, or indeed as a member of any other local government body.

4.5 Article 23 of the Statute provides that MEPs who fall under the provisions of the Statute (all new MEPs, and those who did not opt out under Article 25) will be paid their salaries directly by the EP. Article 11 allows for abatement of MEP salaries where an MEP, by virtue of a dual mandate, has been paid a salary by another parliament. However, as the GLA is not a ‘parliament’, this provision does not cover GLA Members. There is therefore no provision within the Statute which allows for the abatement of the MEP salary where that MEP also receives a salary as a GLA Member.

4.6 Under UK legislation, the GLAA 1999 provides, at section 25, that a GLA Member’s salary may be abated in relation to any other salary received under the 1979 Act. Only those MEPs who have opted in (by virtue of entitlement under Article 25 of the Statute) fall under the 1979 Act. The rest now fall under the Statute.

## **5. Territorial Extent and Application**

5.1 This instrument applies to England.

## **6. European Convention on Human Rights**

Robert Neill MP has made the following statement regarding Human Rights:

In my view the provisions of the Members of the European Parliament (Salaries of Members of the Greater London Authority) Order 2011 are compatible with the Convention rights.

## 7. Policy background

- *What is being done and why*

7.1 Since the establishment of the GLA in 2000, an order has been in place under section 25 of the GLAA 1999 to abate the salary of a GLA member (the Mayor of London or London Assembly member) who is also either a MP or MEP. This is to avoid contravening the principle that elected members should not receive two full salaries for holding two political posts simultaneously. It also responds to the general sense that one person carrying out two full-time posts should not receive the same remuneration as two individuals carrying out the roles separately.

7.2 Between 2000 and 2008, any GLA member, who had such a dual mandate, could only receive two-thirds of their GLA salary. Since May 2008, following a revision of the order, this has been reduced to a third in line with the position for members of the Scottish Parliament and Welsh Assembly.

7.3 However, an order under section 25 only applies to a GLA member who is an MEP remunerated under section 1 of the European Parliament (Pay and Pensions) Act 1979 (which set the remuneration arrangements for all UK MEPs until 2009). New remuneration arrangements, following the adoption of Council decision 2005/684/EC, now apply to all new UK MEPs elected at the last European elections in 2009; and so any GLA member who is an MEP remunerated under the new arrangements would not be subject to salary abatement.

7.4 Although this has not been a practical issue, as no GLA member is currently a MEP, the Government wants to rectify this legislative gap so that an order under section 25 could capture MEPs remunerated under 2005/684/EC. This order under the European Communities Act 1972 will amend section 25; and after it has come in to force, the intention is to amend the existing order under section 25 to reflect the new remuneration arrangements for MEPs. This should be completed in time for the next scheduled GLA elections in May 2012 to ensure that the order applies to any newly elected GLA member who is also a member of the European Parliament.

- *Consolidation*

7.5 N/A

## 8. Consultation outcome

8.1 There has been no consultation in relation to this instrument, but the GLA is aware of the need for this legislative change and is content.

**9. Guidance**

9.1 There are no plans to issue guidance in relation to this instrument.

**10. Impact**

10.1 No impact on business, charities or voluntary bodies is foreseen.

10.2 The impact on the public sector will be negligible – there is a theoretical potential for modest savings in expenditure on GLA salaries.

10.3 An Impact Assessment has not been prepared for this instrument.

**11. Regulating small business**

11.1 The legislation does not apply to small business.

**12. Monitoring & review**

12.1 There are no plans to monitor or review this instrument.

**13. Contact**

Andrew Short at the Department for Communities and Local Government Tel: 0303 444 4323 or email: [Andrew.short@communities.gsi.gov.uk](mailto:Andrew.short@communities.gsi.gov.uk) can answer any queries regarding the instrument.