STATUTORY INSTRUMENTS

2018 No. 328

POLITICAL PARTIES, NORTHERN IRELAND

The Transparency of Donations and Loans etc. (Northern Ireland Political Parties) Order 2018

Made - - - - 7th March 2018
Coming into force in accordance with Article 1(2) and (3)

The Secretary of State makes the following Order in exercise of the powers conferred by sections 71D(**1**) and 71Z3(**2**) of the Political Parties, Elections and Referendums Act 2000(**3**), section 15A(1) to (3) of the Northern Ireland (Miscellaneous Provisions) Act 2006(**4**) and section 63(1) to (3) of the Electoral Administration Act 2006(**5**).

In accordance with sections 71A(4) and 71Z(4) of the Political Parties, Elections and Referendums Act 2000, section 15A(1) of the Northern Ireland (Miscellaneous Provisions) Act 2006 and section 63(1) of the Electoral Administration Act 2006, the Electoral Commission has been consulted prior to making this Order.

A draft of this Order has been laid before Parliament under section 156(4)(ca) and (dd) of the Political Parties, Elections and Referendums Act 2000, section 15A(5) of the Northern Ireland (Miscellaneous Provisions) Act 2006 and section 63(6) of the Electoral Administration Act 2006 and approved by resolution of each House of Parliament.

Citation, commencement and interpretation

1.—(1) This Order may be cited as the Transparency of Donations and Loans etc. (Northern Ireland Political Parties) Order 2018.

(2) This Order comes into force on the day after the day on which it is made, subject to paragraph (3).

(**1**) Section 71D was inserted by paragraph 1 of Schedule 1 to the Northern Ireland (Miscellaneous Provisions) Act 2006 (c. 33) ("NIMPA 2006"); "prescribed" is defined in section 71A(4) of the Political Parties, Elections and Referendums Act 2000 (c. 41) (which was inserted by section 12 of NIMPA 2006) as meaning prescribed by an order made by the Secretary of State after consulting the Electoral Commission.

(**2**) Section 71Z3 was inserted by S.I. 2008/1319; "prescribed" is defined in section 71Z(4) of the Political Parties, Elections and Referendums Act 2000 (which was inserted by S.I. 2008/1319) as meaning prescribed by an order made by the Secretary of State after consulting the Electoral Commission.

(**3**) 2000 c. 41.

(**4**) 2006 c. 33; section 15A was inserted by section 1 of the Northern Ireland (Miscellaneous Provisions) Act 2014 (c. 13) ("NIMPA 2014"). See also the restrictions on the power in section 15B of NIMPA 2006, which was inserted by section 1 of NIMPA 2014.

(**5**) 2006 c. 22; section 63 was amended by section 2 of NIMPA 2014.

(3) Articles 8 and 9 come into force on the twenty-first day after the day on which this Order is made.

(4) In this Order, "the 2000 Act" means the Political Parties, Elections and Referendums Act 2000.

Amendments to section 71E of the 2000 Act

2.—(1) Section 71E of the 2000 Act (duty not to disclose contents of donation reports)(**6**) is amended as follows.

(2) Before subsection (1) insert—

"(A1) Subject to subsection (A2), this section applies only to a donation received by a Northern Ireland recipient before 1 July 2017.

(A2) This section does not apply to a donation received before 1 July 2017 which is required to be recorded in a report—

(a) under section 62(**7**) in respect of a period beginning on or after 1 July 2017 because the donation is required by that section to be aggregated with a donation received or transaction entered into on or after that date, or

(b) under paragraph 10 of Schedule 7(**8**) delivered on or after 1 July 2017 because the donation is required by that paragraph to be aggregated with a donation received or a transaction entered into on or after that date."

(3) In subsection (1)(a), for "received by a Northern Ireland recipient" substitute "to which this section applies".

(4) After subsection (5), insert—

"(6) A person does not contravene subsection (1) if that person discloses information relating to a donation to which this section applies where—

(a) the donation was received on or after 1 January 2014 but before 1 July 2017,

(b) the Northern Ireland report recording the donation does not state that the donation was received before 1 July 2017, and

(c) when the disclosure is made, the person believes that the donation was received on or after 1 July 2017 and is reasonably entitled to hold that belief.

(7) A person does not contravene subsection (1) merely because—

(a) the person discloses information relating to a transaction within section 71Z4(A3) (duty not to disclose contents of transaction reports: change to a transaction)(**9**), and

(b) that disclosure suggests that a donation was received before 1 July 2017 with which the transaction has been aggregated in accordance with—

(i) sections 62 (quarterly donation reports: aggregation) and 71M (quarterly reports of regulated transactions: aggregation)(**10**), or

(**6**) Section 71E was inserted by paragraph 1 of Schedule 1 to NIMPA 2006.
(**7**) Section 62 has been amended by paragraph 148 of Part 7 of Schedule 1 to the Electoral Administration Act 2006 and by section 20(2) and (3) of, and prospectively by paragraph 16 of Schedule 6 to, the Political Parties and Elections Act 2009 (c. 12).
(**8**) Paragraph 10 has been amended by section 59(1) and (2) of, and paragraph 28 of Part 1and paragraph 154 of Part 7 of Schedule 1 to, the Electoral Administration Act 2006; section 20(2) (in part prospectively) and (3) of, and prospectively by paragraph 2 of Schedule 3 paragraph 3 of Schedule 4 to, the Political Parties and Elections Act 2009; and S.I 2007/2501. There is another amending instrument but it is not relevant.
(**9**) Section 71Z4 was inserted by paragraph 1 of Schedule 1 to S.I. 2008/1319; subsection (A3) is inserted by article 3 of this Order.
(**10**) Section 71M was inserted by section 61(1) of the Electoral Administration Act 2006 and has been amended by section 20(2) of the Political Parties and Elections Act 2009.

(ii) paragraph 10 of Schedule 7 (donation reports: aggregation) and paragraph 9 of Schedule 7A (transactions reports: aggregation)(**11**).

(8) A person does not contravene subsection (1) merely because—

(a) the person discloses information relating to a donation or a transaction in accordance with this section or section 71Z4, and

(b) the disclosure suggests that a donation was received before 1 July 2017 as a result of which section 62(6) or 71M(6) applies in relation to the donation or transaction mentioned in paragraph (a).”

Amendments to section 71Z4 of the 2000 Act

3.—(1) Section 71Z4 of the 2000 Act (duty not to disclose contents of transaction reports) is amended as follows.

(2) Before subsection (1) insert—

“(A1) Subject to subsections (A2) and (A3), this section applies only to a transaction entered into by a Northern Ireland participant before 1 July 2017.

(A2) This section does not apply to a transaction entered into before 1 July 2017 which is required to be recorded in a report—

(a) under section 71M in respect of a period beginning on or after 1 July 2017 because the transaction is required by that section to be aggregated with a transaction entered into or a donation received on or after that date, or

(b) under paragraph 9 of Schedule 7A delivered on or after 1 July 2017 because the transaction is required by that paragraph to be aggregated with a transaction entered into or a donation received on or after that date.

(A3) This section does not apply to a transaction entered into on or after 1 January 2014 and before 1 July 2017—

(a) if a change to that transaction is required to be recorded in a report under section 71M in respect of a period beginning on or after 1 July 2017 because the change falls within section 71N(1) or (3)(**12**), or

(b) if a change to that transaction which takes effect on or after 1 July 2017 is required to be recorded in a report under paragraph 11 of Schedule 7A because the change falls within sub-paragraph (3) or (5) of that paragraph.

(A4) In subsection (A3), a reference to a change within section 71N(1) or paragraph 11(3) of Schedule 7A does not include a reference to a repayment of the whole of a debt (or all of the remaining debt) under a loan.”

(3) In subsection (1)(a), for “a Northern Ireland participant is a party” substitute “this section applies”.

(4) After subsection (5), insert—

“(6) A person does not contravene subsection (1) if that person discloses information relating to a transaction to which this section applies where—

(a) the transaction was entered into on or after 1 January 2014 but before 1 July 2017,

(b) the Northern Ireland report recording the transaction does not state that the transaction was entered into before 1 July 2017, and

(**11**) Schedule 7A was inserted by paragraph 99 of Part 6 of Schedule 1 to the Electoral Administration Act 2006; paragraph 9 has been amended by sections 11(6) (prospectively) and 20(2) and (3) of the Political Parties and Elections Act 2009 and by S.I.s 2008/1737 and 2009/185.

(**12**) Section 71N was inserted by section 61(1) of the Electoral Administration Act 2006.

(c) when the disclosure is made, the person believes that the transaction was entered into on or after 1 July 2017 and is reasonably entitled to hold that belief.

(7) A person does not contravene subsection (1) if that person discloses information relating to a transaction to which this section applies where—

(a) the transaction was entered into on or after 1 January 2014 but before 1 July 2017,

(b) a change to the transaction which took effect before 1 July 2017 is required to be recorded in a report under section 71M or paragraph 11 of Schedule 7A,

(c) the Northern Ireland report recording the change does not state that it took effect before 1 July 2017, and

(d) when the disclosure is made, the person believes that the change took effect on or after 1 July 2017 and is reasonably entitled to hold that belief.

(8) A person does not contravene subsection (1) merely because—

(a) the person discloses information relating to a transaction within subsection (A3), and

(b) that disclosure suggests that a transaction was entered into before 1 July 2017 with which the transaction has been aggregated in accordance with section 71M (quarterly reports of regulated transactions: aggregation) or paragraph 9 of Schedule 7A (transactions reports: aggregation).

(9) A person does not contravene subsection (1) merely because—

(a) the person discloses information relating to a donation or a transaction in accordance with this section or section 71E, and

(b) the disclosure suggests that a transaction was entered into before 1 July 2017 as a result of which section 71M(6) or 62(6) applies in relation to the transaction or donation mentioned in paragraph (a).”

Amendment to section 149 of the 2000 Act

4. In section 149 of the 2000 Act (inspection of Commission’s registers etc.)(**13**), omit subsections (8) to (11).

Insertion of section 149A of the 2000 Act

5. After section 149 of the 2000 Act, insert—

“**Inspection of Commission’s registers etc.: Northern Ireland**

149A.—(1) Subsections (2) to (4) of section 149 (Commission to make available a copy of the register) do not apply to so much of the register maintained under section 69 (register of recordable donations)(**14**) as concerns donations to which section 71E (non-disclosure of a donation received by a Northern Ireland recipient) applies.

(2) Subsections (2) to (4) of section 149 do not apply to so much of the register maintained under section 71V (register of recordable transactions)(**15**) as concerns

(**13**) Section 149 has been amended by section 61(3) of the Electoral Administration Act 2006; paragraph 24 of Schedule 6, and Schedule 7, to the Political Parties and Elections Act 2009; and section 33(3) of the Transparency of Lobbying, Non-Party Campaigning and Trade Union Administration Act 2014 (c. 4). Subsections (8) and (9) were inserted by paragraph 3 of Schedule 1 to the Northern Ireland (Miscellaneous Provisions) Act 2006 and subsections (10) and (11) were inserted by S.I. 2008/1319.

(**14**) Section 69 has been amended by section 58 of, and paragraph 149 of Part 7 of Schedule 1 to, the Electoral Administration Act 2006.

(**15**) Section 71V was inserted by section 61(1) of the Electoral Administration Act 2006.

recordable transactions to which section 71Z4 (non-disclosure of a transaction to which a Northern Ireland participant is a party) applies.

(3) Subsections (2) to (4) of section 149 do not apply to a part of a register to which subsection (4) or (5) applies.

(4) This subsection applies to a part of the register maintained under section 69 where—

(a) the information included in that part of the register relates to a donation which is received by a Northern Ireland recipient and is a donation to which section 71E does not apply, and

(b) that part of the register contains details relating to—

(i) a document of a kind mentioned in paragraph 2A(4)(b) (Irish passports etc.) of Schedule 6(**16**), or

(ii) a statement of a kind mentioned in paragraph 2A(5)(c) (statement by Department of Foreign Affairs of Ireland) of that Schedule.

(5) This subsection applies to a part of the register maintained under section 71V where —

(a) the information included in that part of the register relates to a transaction which is entered into by a Northern Ireland participant and is a transaction to which section 71Z4 does not apply, and

(b) that part of the register contains details relating to a document of a kind mentioned in paragraph 2A(4)(b) (Irish passports etc.) of Schedule 6A(**17**).

(6) But where subsection (3) would otherwise have the effect that the Commission would be prevented from making available to the public information to which this subsection applies, it does not have that effect.

(7) Subsection (6) applies to information supplied to the Commission—

(a) under a provision of Schedule 6 which is not mentioned in subsection (4)(b), or

(b) under a provision of Schedule 6A which is not mentioned in subsection (5)(b).

(8) A reference in this section to a provision of Schedule 6 or 6A includes a reference to that provision as applied by paragraph 10(4) of Schedule 7 or paragraph 9(9) of Schedule 7A.

(9) In this section—

(a) "Northern Ireland recipient" has the same meaning as in Chapter 6 of Part 4, and

(b) "Northern Ireland participant" has the same meaning as in Chapter 2 of Part 4A."

Amendments to Schedule 6 to the 2000 Act

6.—(1) Paragraph 5 of Schedule 6 to the 2000 Act (details to be given in donation reports: circumstances in which donation made) is amended as follows.

(2) After sub-paragraph (4) insert—

"(5) Where a quarterly report to which this sub-paragraph applies includes a donation which was received by a Northern Ireland recipient, or an accounting unit of a Northern Ireland recipient, before 1 July 2017, the report must give the date on which the donation was received.

(**16**) Paragraph 2A of Schedule 6 was inserted by S.I. 2007/2501; there are other amending instruments but none is relevant.
(**17**) Schedule 6A was inserted by section 61(5) of the Electoral Administration Act 2006. Paragraph 2A was inserted by S.I. 2008/1737; there are other amendments to paragraph 2A but none is relevant.