Draft Order laid before Parliament under section 84(4) of the Northern Ireland Act 1998, for approval by resolution of each House of Parliament.

DRAFT STATUTORY INSTRUMENTS

2014 No.

REPRESENTATION OF THE PEOPLE, NORTHERN IRELAND

The Anonymous Registration (Northern Ireland) Order 2014

Made - - - - ***

Coming into force - - *15th September 2014*

At the Court at Buckingham Palace, the *** day of 2014

Present,

The Queen's Most Excellent Majesty in Council

In accordance with section 7(3) of the Political Parties, Elections and Referendums Act 2000(**1**), the Electoral Commission has been consulted prior to a draft of this Order being laid before Parliament.

In accordance with section 84(4) of the Northern Ireland Act 1998(**2**) a draft of this Order has been laid before and approved by a resolution of each House of Parliament.

Accordingly, Her Majesty, in exercise of the powers conferred on Her by section 84(1), (1A) and (3) of the Northern Ireland Act 1998(**3**) and section 1 of the Northern Ireland (Miscellaneous Provisions) Act 2006(**4**), is pleased, by and with the advice of Her Privy Council, to order as follows:

Introductory

Citation, commencement, extent and interpretation

1.—(1) This Order may be cited as the Anonymous Registration (Northern Ireland) Order 2014 and comes into force on 15th September 2014.

(**1**) 2000 c. 41; amendments have been made to section 7 but they are not relevant to this Order.
(**2**) 1998 c. 47.
(**3**) Section 84(1A) was inserted by section 3(4) of the Elections Act 2001 (c. 7).
(**4**) 2006 c.33.

(2) This Order is made only for purposes corresponding, or similar, to those of section 10 of the Electoral Administration Act 2006(**5**).

(3) An amendment made by this Order has the same extent as the enactment (or part of an enactment) amended.

(4) In this Order—

"the 1983 Act" means the Representation of the People Act 1983(**6**); and

"the 1985 Act" means the Representation of the People Act 1985(**7**).

Extension of provisions to Northern Ireland

Extension of anonymous registration provisions to Northern Ireland

2.—(1) Sections 9B and 9C of the 1983 Act (anonymous registration)(**8**) extend to Northern Ireland.

(2) The following amendments made by Part 1 of Schedule 1 to the Electoral Administration Act 2006 (anonymous registration)(**9**) extend to Northern Ireland—

(a) paragraphs 2 to 16 (amendments of the 1983 Act);

(b) paragraph 17 (amendments of the 1985 Act);

(c) paragraphs 24 to 30 (amendments of the Political Parties, Elections and Referendums Act 2000).

(3) In consequence of paragraphs (1) and (2), in section 78(2) of the Electoral Administration Act 2006(**10**)—

(a) in paragraph (a), omit ", 10";

(b) in paragraph (d), for "Parts 1 and" substitute "Part".

Parliamentary elections

Amendments of the 1983 Act

3.—(1) The 1983 Act is amended as follows.

(2) In section 9B (anonymous registration)—

(a) in subsection (1)(a), after "10ZC"(**11**) insert "or 10A(1)(a)"(**12**);

(b) in subsection (6), after "10ZC" insert "or 10A(1)(a)";

(**5**) 2006 c. 22; section 1 of the Northern Ireland (Miscellaneous Provisions) Act 2006 (c. 33) enables an Order in Council to be made under section 84(1) of the Northern Ireland Act 1998 (c. 47) for purposes corresponding, or similar, to those of section 10 of the Electoral Administration Act 2006 (c. 22).
(**6**) 1983 c. 2.
(**7**) 1985 c. 50.
(**8**) Sections 9B and 9C were inserted by section 10 of the Electoral Administration Act 2006 (c. 22). Section 9B(9) was repealed by 20 of the Local Electoral Administration and Registration Services (Scotland) Act 2006 (asp 14). Sections 9B and 9C were amended by paragraphs 7 and 8 of Schedule 4 to the Electoral Registration and Administration Act 2013 (c. 6), but those amendments are not yet in force.
(**9**) Paragraphs 4(2), 5 and 6(2) of Schedule 1 to the Electoral Administration Act 2006 (c. 22) have been repealed by paragraph 23 of Schedule 4 to the Electoral Registration and Administration Act 2013 (c. 6), but those repeals have not yet been brought into force by Commencement Order.
(**10**) Section 78(2) confined the extent of certain provisions of the Electoral Administration Act 2006 (c. 22) to Northern Ireland.
(**11**) Section 10ZC was inserted by section 1 of the Electoral Registration and Administration Act 2013 (c. 6).
(**12**) Section 10A was inserted by paragraph 4 of Schedule 1 to the Representation of the People Act 2000 (c. 2).

(c) in subsection (7)(b), after "person" insert "(including an application which is treated as having been made by him by virtue of section 10A(2) below)"(**13**).

(3) In section 9C (removal of anonymous entry)—

(a) in subsection (1) after "register" where it occurs for the first time insert "maintained by a registration officer in Great Britain";

(b) after subsection (1) insert—

"(1A) If a person ("P") has an anonymous entry in a register maintained by the Chief Electoral Officer for Northern Ireland, P's entitlement to remain registered terminates at the end of such period of five years or less beginning with the relevant date, as that officer determines in relation to P.

(1B) But if, at any time before the expiry of the period determined under subsection (1A)—

(a) the declaration made for the purposes of section 9B is cancelled, or

(b) the Chief Electoral Officer determines that the safety test is no longer satisfied,

P's entitlement to remain registered terminates at that time.

(1C) In subsection (1A) "the relevant date" means—

(a) where P's anonymous entry is the result of an application under section 9B(1)(a), the date when P's entry in the register first takes effect; or

(b) where P's anonymous entry is the result of an application under section 9B(1)(b), the date when the Chief Electoral Officer determines under section 9B(2) that the safety test is satisfied.

(1D) Subsection 9B(10) (meaning of "safety test") applies for the purposes of subsection (1B) (treating references to the applicant for an anonymous entry as references to P).

(1E) A determination under subsection (1A) or (1B) must be made in accordance with regulations.";

(c) in subsection (2)—

(i) for "Subsection (1) above" substitute "This section", and

(ii) for the words from "the expiry of" to the end substitute "the time at which it would terminate under this section.";

(d) in subsection (3), for "subsection (1) above" substitute "this section".

(4) In section 58 (registration appeals: Northern Ireland)(**14**), after subsection (1)(b) insert—

"(ba) from a determination of the Chief Electoral Officer under section 9B(2) or section 9C(1B);".

(5) Schedule 1 (parliamentary elections rules) is amended as follows.

(6) In rule 31A (return of postal ballot papers)(**15**), after paragraph (1) insert—

"(1A) Paragraph (1) shall not apply in relation to a vote on a tendered postal ballot paper (see rule 40ZA).".

(**13**) Section 10A(2) was amended by Schedule 7 to the Political Parties and Elections Act 2009 (c.12). Section 10A(2) was also amended by section 33 of that Act, but that amendment has not been brought into force and will be repealed by paragraph 24 of Schedule 4 to the Electoral Registration and Administration Act 2013 (c. 6).

(**14**) Section 58 was substituted by paragraph 5 of Schedule 4 to the Northern Ireland (Miscellaneous Provisions) Act 2006 (c. 33).

(**15**) Rule 31A was added by section 45(2) of the Electoral Administration Act 2006 (c. 22).

(7) In rule 40 (tendered ballot papers)(**16**), after paragraph (6) insert—

"(7) This rule does not apply in relation to an elector who has an anonymous entry in a register maintained by the Chief Electoral Officer for Northern Ireland.".

(8) After rule 40 insert—

"**Tendered postal ballot papers: anonymous entries in Northern Ireland**

40ZA.—(1) This rule applies to a person ("P") who—

(a) is an elector with an anonymous entry in a register maintained by the Chief Electoral Officer for Northern Ireland; or

(b) is entitled to vote by post as proxy for such an elector,

and who claims to have lost, or not received, a postal ballot paper.

(2) P may apply to the Chief Electoral Officer for a replacement postal ballot paper (in these rules referred to as a "tendered postal ballot paper").

(3) The application—

(a) may be made by post or in person,

(b) must be accompanied by a specified document within the meaning of rule 37(**17**) (as it extends to Northern Ireland), and

(c) must be delivered to the Chief Electoral Officer—

(i) where the application is made by post, before 4 p.m. on the fourth day before the day of the poll, and

(ii) where the application is made in person, before 4 p.m. on the day before the day of the poll.

(4) If the Chief Electoral Officer—

(a) is satisfied as to P's identity, and

(b) has no reason to doubt that P has lost, or not received, a postal ballot paper,

the Chief Electoral Officer must issue a tendered postal ballot paper to P in the prescribed manner.

(5) A tendered postal ballot paper must be of a different colour from the other ballot papers.

(6) P, if issued with a tendered postal ballot paper, may mark it, sign it, and send it to the Chief Electoral Officer, in the same manner as a postal ballot paper.

(7) A tendered postal ballot paper which has not been signed, or which does not meet the conditions in rule 45(2) and (2A)(**18**), is void.

(8) On receipt of a tendered postal ballot paper, the Chief Electoral Officer must deal with it in the prescribed manner.

(**16**) Rule 40 was amended by section 1 of the Elections (Northern Ireland) Act 1985 (c. 2); Schedule 5 to the Representation of the People Act 1985 (c.50); section 2 of the Electoral Fraud (Northern Ireland) Act 2002 (c. 13); section 38 of, and paragraphs 37 and 81 of Schedule 1 to, the Electoral Administration Act 2006 (c. 22); and paragraph 6 of Schedule 4 to the Northern Ireland (Miscellaneous Provisions) Act 2006 (c. 33).

(**17**) Rule 37 was amended by S.I. 1987/168; S.I. 2002/2835; Schedule 1 to the Electoral Administration Act 2006 (c. 22); and Schedule 4 to the Northern Ireland (Miscellaneous Provisions) Act 2006 (c. 33). In addition, section 4 of, and the Schedule to, the Elections Act 2001 (c. 7) made a non-textual amendment when local elections are combined with parliamentary elections.

(**18**) Rule 45(1) to (1A) was substituted by paragraph 82 of Schedule 4 to the Representation of the People Act 1985 (c.50); paragraph (1B) was inserted and paragraph (2) was amended by paragraph 10 of Schedule 6 to the Representation of the People Act 2000 (c.2); paragraph (1B) was amended by paragraph 73 of Schedule 1, and paragraph 1 of Schedule 2, to the Electoral Administration Act 2006 (c. 22); paragraph (2) was amended and paragraph (2A) was inserted by section 3 of the Electoral Fraud (Northern Ireland) Act 2002 (c. 13); paragraphs (3A) and (8) were inserted by section 48 of the Constitutional Reform and Governance Act 2010 (c.25); and paragraph (4) was amended by paragraph 91 of Schedule 1 to the Electoral Administration Act 2006 (c. 22).

(9) The Chief Electoral Officer must—

(a) endorse each tendered postal ballot paper with the entry in the register of the elector in question, and

(b) set it aside in a separate packet of tendered postal ballot papers.

(10) The Chief Electoral Officer must add the entry in the register of the elector in question to a list (in these rules referred to as the "tendered postal votes list").

(11) The Chief Electoral Officer must seal the packet of tendered postal ballot papers.

(12) This rule applies in the case of a person in respect of whom a notice has been issued under section 13BA(9) (alteration of registers in Northern Ireland: pending elections)(**19**) as if—

(a) in paragraph (1) for "in a register maintained" there were substituted "in respect of whom a notice under section 13BA(9) has been issued"; and

(b) in paragraphs (9)(a) and (10), for "entry in the register of the elector in question" there were substituted "entry relating to the elector in question on a notice issued under section 13BA(9)".".

(9) In rule 45 (the count)—

(i) in paragraph (3), at the end insert "or any tendered postal ballot paper";

(ii) in paragraph (5), after "the tendered votes list" (in both places) insert "and tendered postal votes list".

(10) In rule 54 (sealing up of ballot papers)(**20**), in paragraph (2), after sub-paragraph (a) insert—

"(aa) tendered postal ballot papers,".

(11) In rule 55 (delivery of documents to registration officer)(**21**), in paragraph (1)(c), after "the tendered votes lists," insert "the tendered postal votes lists,".

Repeal of previous amendments of the 1983 Act

4. Paragraphs 9(4)(b) and 10(5) of Schedule 4 to the Electoral Registration and Administration Act 2013(**22**) (which amend sections 10 and 10A of the 1983 Act but are not in force) are repealed.

Amendments of the 1985 Act

5.—(1) The 1985 Act is amended as follows.

(2) In section 5 (manner of voting at parliamentary elections)(**23**), after subsection (5A) insert—

"(5AA) Nothing in subsections (1) to (5) applies to a person who has an anonymous entry in the register of parliamentary electors for the constituency; and such a person may only vote by post or by proxy (where entitled as an elector to vote by post or, as the case may be, by proxy at the election).".

(3) In section 6 (absent vote at elections for an indefinite period)—

(a) before subsection (2)(a) insert—

(**19**) Section 13BA was inserted by section 6 of the Northern Ireland (Miscellaneous Provisions) Act 2006 (c. 33).
(**20**) In rule 54, paragraph (2) was substituted by section 31 of the Electoral Administration Act 2006 (c. 22) and paragraph (3) was inserted by paragraph 6 of Schedule 4 to the Northern Ireland (Miscellaneous Provisions) Act 2006 (c. 33).
(**21**) Rule 55 was amended by section 13 of the Representation of the People Act 2000 (c. 2) and sections 31, 41 and 45 of, paragraphs 40 and 95 of Schedule 1 to, and paragraph 1 of Schedule 2 to the Electoral Administration Act 2006 (c. 22); and paragraph 6 of Schedule 4 to the Northern Ireland (Miscellaneous Provisions) Act 2006 (c. 33).
(**22**) 2013 c.6.
(**23**) Sections 5 to 9 were repealed in respect of England, Scotland and Wales only by section 12 of, and Part 2 of Schedule 7 to, the Representation of the People Act 2000 (c. 2). Sections 5 to 9 were amended in relation to Northern Ireland only by paragraphs 12 to 17 of Schedule 6 to, and by Part 3 of Schedule 7 to, the Representation of the People Act 2000 (c. 2).