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

2010 No.

NORTHERN IRELAND

The Local Elections (Northern Ireland) Order 2010

Made - - - - ***

Coming into force in accordance with Article 1(2)

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

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 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, is pleased, by and with the advice of Her Privy Council, to order as follows:

Citation and commencement

1.—(1) This Order may be cited as the Local Elections (Northern Ireland) Order 2010.

(2) This Order comes into force on the day after the day on which it is made.

(3) This Order does not apply to an election to fill a casual vacancy in a district council that occurred (within the meaning of section 11(5) of the 1962 Act(**3**)) on or before the day on which this Order comes into force.

Interpretation

2.—(1) In this Order—

(**1**) 2000 c. 41; amendments have been made to section 7 of this Act but those amendments are not relevant to this Order.
(**2**) 1998 c. 47; section 84 was amended by section 34(1) of the Elections Act 2001 (c. 7).
(**3**) 1962 c.14 (N.I.); section 11(5) was amended by S.I. 1992/810 (N.I.6).

"the 1962 Act" means the Electoral Law Act (Northern Ireland) 1962(**4**);

"Local Elections Rules" means the rules in Schedule 5 to the 1962 Act(**5**); and

"the 1985 Order" means the Local Elections (Northern Ireland) Order 1985(**6**).

(2) The Interpretation Act (Northern Ireland) 1954(**7**) applies to Article 1 and this Article and the following provisions of this Order as it applies to an Act of the Assembly.

Date of next local elections

3. In 2011 the election day (within the meaning of section 11(1)(**8**) of the 1962 Act) is the first Thursday in May (5th May).

Amendments to the 1962 Act

4. Schedule 1 to this Order has effect.

Amendments to the 1985 Order

5. Schedule 2 to this Order has effect.

Amendments to the Elections Act 2001

6.—(1) The Schedule to the Elections Act 2001(**9**) is amended as follows.

(2) In paragraph 23 (voting by persons with disabilities)—

(a) for "paragraph (4)" substitute "paragraph (4A)"; and

(b) renumber the inserted paragraphs (4A) and (4B) so that they become paragraphs (4B) and (4C).

(3) In paragraph 28 (countermand or abandonment of poll on death of candidate)—

(a) omit sub-paragraph (1);

(b) in sub-paragraph (2)—

(i) for "After paragraph (1)" substitute "In rule 63 after paragraph (2)"; and

(ii) renumber the inserted paragraph (1A) as paragraph (2A); and

(c) in sub-paragraph (3) for "For paragraph (2)" substitute "In rule 64, for paragraphs (2) to (6) substitute".

Access to marked registers and other documents after an election

7. Schedule 3 to this Order (access to marked registers and other documents open to public inspection after an election) has effect.

(**4**) 1962 c. 14 (N.I.); relevant amendments are referenced in this Order.
(**5**) Schedule 5 was substituted in its entirety by S.I. 1985/454; the local elections rules have been amended on numerous occasions since then and relevant amendments are referenced in this Order.
(**6**) S.I. 1985/454; this Order has been amended by S.I. 1987/168; S.I. 1990/595; S.I. 1991/1715; S.I. 1992/809; S.I. 1997/867; S.I. 1998/3150; paragraph 31 of the Schedule to the Elections Act 2001 (c. 7) (a non-textual amendment); S.I. 2002/2835; and S.I. 2005/1969.
(**7**) 1954 c. 33 (N.I.).
(**8**) Section 11(1) was amended by S.I. 2009/225.
(**9**) 2001 c. 7.

Revocations

8.—(1) In Schedule 2 to the Police and Criminal Evidence (Northern Ireland) Order 1989(**10**), the entry in respect of rule 33 of Schedule 5 to the 1962 Act is revoked.

(2) In the Postponement of Local Elections (Northern Ireland) Order 2009(**11**), article 2(3) (which provides that section 11(1A) of the 1962 Act does not apply to the local general election in 2011) is revoked.

Clerk of the Privy Council

(**10**) S.I. 1989/1341 (N.I. 12).
(**11**) S.I. 2009/225.

SCHEDULE 1 Article 4

Amendments to the 1962 Act

Part 1

Amendments to Part 4 (officers) and Part 6 (the election campaign)

1. The 1962 Act is amended as follows.

2. After section 14A(2)(**12**) (appointment of persons to assist Chief Electoral Officer) insert—

"(2A) The Chief Electoral Officer may give persons specified in Article 9(2) of the Electoral Law (Northern Ireland) Order 1972(**13**) directions about the discharge of functions under the Local Elections Rules which have been delegated to them pursuant to subsection (2).".

3. In section 22(2) (remuneration and expenses of returning officer at parliamentary election) for "Act" substitute "Part".

4. After section 34(4)(**14**) (appointment of election agent) insert—

"(4A) The declaration as a candidate's election agent at a local election of a person ("P") other than the candidate is of no effect under this section unless it is made and signed by P or is accompanied by a written declaration of acceptance signed by P.".

5. After section 37(**15**) (default in appointing election agent) insert—

"**Control of donations to candidates at local elections**

37A.—(1) In the case of any candidate ("C") at a local election, any money or other property provided (whether as a gift or loan)—

(a) by any person other than C or C's election agent, and

(b) for the purpose of meeting election expenses incurred by or on behalf of C,

must be provided to C or C's election agent.

(2) Subsection (1) does not apply to any money or other property so provided for the purpose of meeting any such expenses which may be lawfully paid by a person other than C or C's election agent.

(3) Schedule 3A has effect for the purpose of controlling donations to candidates.

(4) In this section and that Schedule "property" includes any description of property, and references to the provision of property accordingly include the supply of goods.".

6. Omit section 38 (making of contracts through election agent).

7. For section 39(**16**) (payment of expenses at an election through election agent) substitute—

(**12**) Section 14 was substituted, and sections 14A and 14B inserted, by S.I. 1972/1264 (N.I. 13). Functions conferred on the Governor, Minister and the Ministry of Finance were transferred in accordance with S.I. 1973/2163. Section 14 was subsequently amended by the Northern Ireland Assembly Disqualification Act 1975 (c. 25), the Elected Authorities (Northern Ireland) Act 1989 (c. 3) ("the 1989 Act") and the Northern Ireland (Miscellaneous Provisions) Act 2006 (c. 33); section 14A was subsequently amended by S.I. 1985/454 and the 1989 Act; and section 14B was amended by the 1989 Act.
(**13**) S.I. 1972/1264 (N.I. 13).
(**14**) Section 34(4) was amended by S.I. 1987/168.
(**15**) Section 37 was amended by S.I. 1972/1264 (N.I.15) and S.I. 1987/168.
(**16**) Section 39 was amended by S.I. 1972/1264 (N.I.15) and S.I. 1987/168.

"**Payment of expenses through an election agent**

39.—(1) Subject to subsection (3), no payment (of whatever nature) may be made by—

(a) a candidate at an election, or

(b) any other person,

in respect of election expenses incurred by or on behalf of the candidate unless it is made by or through the candidate's election agent.

(2) Every payment made by an election agent in respect of any election expenses must, except where less than £20, be vouched by a bill stating the particulars or by a receipt.

(3) This section does not apply to—

(a) any expenses which are, in accordance with section 40(1) or (1A), 43(3) or 44(2), paid by the candidate;

(b) any expenses which are paid in accordance with section 40(2) by a person authorised as mentioned in that provision;

(c) any expenses included in a declaration made by the election agent under section 40A;

(d) any expenses which are to be regarded as incurred by or on behalf of the candidate by virtue of section 52A(5).".

8.—(1) Section 40(**17**) (personal expenses of candidate and petty expenses at an election) is amended as follows.

(2) After subsection (1) insert—

"(1A) The candidate at a local election may also pay any election expenses (other than expenses falling within subsection (1)) which were incurred by the candidate or on the candidate's behalf and in respect of which payment falls to be made before the date on which an election agent is appointed (or deemed to have been appointed).".

(3) In subsection (2), after "telegrams" insert "(or any similar means of communication)".

(4) In subsection (3)(a), for "personal expenses paid by him under subsection (1)" substitute "expenses paid as mentioned in subsections (1) and (1A)".

9. After section 40 insert—

"**Expenses incurred at a local election otherwise than for election purposes**

40A.—(1) Sections 39, 43 and 44(**18**) do not apply to election expenses—

(a) which are incurred by or on behalf of a candidate otherwise than for the purposes of the candidate's election, but

(b) which by virtue of section 52A(1)(**19**) fall to be regarded as election expenses by reason of the property, services or facilities in respect of which they were incurred being used for the purposes of the candidate's election.

(2) The candidate's election agent must make a declaration of the amount of any election expenses falling within subsection (1).

(3) In this section "for the purposes of the candidate's election" has the same meaning as in sections 52A and 52B.".

(**17**) Section 40 was amended by S.I. 1972/1264 (N.I.13).
(**18**) Section 43 was amended by S.I. 1972/1264 and S.I. 1987/168.
(**19**) Sections 52A and 52B are inserted by this Order.