This draft supersedes the previous draft which was laid before Parliament on 26th June 2002, and is being issued free of charge to all known recipients of that draft.

DRAFT STATUTORY INSTRUMENTS

2002 No.

NORTHERN IRELAND

Local Elections (Northern Ireland) (Amendment) Order 2002

Made - - - - 2002
Coming into force in accordance with article 2

At the Court at , the day of , 2002

Present,

The Queen's Most Excellent Majesty in Council

Whereas the Electoral Commission has been consulted in accordance with section 7(3) of the Political Parties, Elections and Referendums Act 2000(**1**) about this Order;

And whereas a draft of this Order has been approved by resolution of each House of Parliament;

Now, therefore, Her Majesty, in exercise of the powers conferred by section 84(1) and (3) of the Northern Ireland Act 1998(**2**), is pleased, by and with the advice of Her Privy Council, to order, and it is hereby ordered, as follows:—

Citation and interpretation

1.—(1) This Order may be cited as the Local Elections (Northern Ireland) (Amendment) Order 2002.

(2) In this Order—

"the 1985 Order" means the Local Elections (Northern Ireland) Order 1985(**3**); and

"the local elections rules" means the rules in Schedule 5 to the Electoral Law Act (Northern Ireland) 1962(**4**).

(**1**) 2000 c. 41.
(**2**) 1998 c. 47.
(**3**) S.I. 1985/454.
(**4**) 1962 c. 14 (N.I); Schedule 5 was substituted by Schedule 1 to the 1985 Order.

Commencement

2.—(1) Subject to paragraph (3) below, this article and articles 1, 3(2), 5(1), (5) and (6), 6, 11(1) and (4) and 13 of this Order shall come into force on the day after the day on which the Order is made.

(2) Subject to paragraph (3) below, the remaining provisions of this Order shall come into force on 1st December 2002.

(3) The coming into force of articles 3(2), 8, 9, 11(2) and (3), 12, 13 and 14 of, and the Schedule to, this Order shall not apply in respect of an election where the last day for the publication of the notice of election is before the day on which the provision in question comes into force.

Revocations

3.—(1) Article 8 of the Local Elections (Northern Ireland) (Amendment) Order 1990(**5**) (amendment to provision which is replaced by the provisions in the Schedule to this Order) is hereby revoked.

(2) Articles 5 and 6 of the Local Elections (Northern Ireland) (Amendment) Order 1991 (amendments entitling a person to an absent vote for an indefinite period on grounds of change of qualifying addresses)(**6**) are hereby revoked.

Questions about date of birth

4.—(1) Rule 32 (questions to be put to voters) of the local elections rules is amended as follows.

(2) After paragraph (1) there is inserted—

"(1A) In the case of a person applying as an elector, the presiding officer may put the following additional question—

"What is your date of birth?".".

(3) In paragraph (2), after "mentioned" there is inserted "in paragraph (1)".

Amendments to voting procedure

5.—(1) Rule 34 (voting procedure) of the local elections rules is amended as follows.

(2) In paragraph (3) for "the document" to the end there is substituted—

"(a) the document; or

(b) the apparent age of the voter as compared with his age according to the date supplied as the date of his birth pursuant to section 10(4A)(**7**), 10A(1A)(b) or 13A(2A)(b) of the Representation of the People Act 1983(**8**) (as applied by Schedule 1 to the Elected Authorities (Northern Ireland) Act 1989(**9**)),

raises a reasonable doubt as to whether the voter is the elector or proxy he represents himself to be.".

(3) In paragraph (4) for the words from "Where" to "decides," there is substituted "Where in such a case it is a presiding officer who so decides,".

(4) For paragraph (5) there is substituted—

(**5**) S.I. 1990/595.
(**6**) S.I. 1991/1715.
(**7**) S.I. 1991/1715.
(**8**) 1983 c. 2; sections 10, 10A and 13A were substituted by Schedule 1 to the Representation of the People Act 2000 (c. 2) and amended by section 1 of the Electoral Fraud (Northern Ireland) Act 2002 (c. 13).
(**9**) 1989 c. 3; Schedule 1 was amended by paragraph 3 of Schedule 3 to the Representation of the People Act 2000.

"(5) Where in such a case it is a clerk who so decides, he shall refer the matter and produce the document to the presiding officer, who shall proceed as if it had been to him that the voter had presented himself and produced the document in the first place.".

(5) In paragraph (6)(f)(**10**), for the words after "under" there is substituted ", or having effect as if made, under section 79 of the Merchant Shipping Act 1995(**11**)".

(6) In paragraph (6)(g)(**12**), after the words "issued by" there is inserted "the Department for Social Development,".

(7) After paragraph (6)(g) there is inserted—

"(h) a Senior SmartPass issued under the Northern Ireland Concessionary Fares Scheme for use from 1st May 2002;".

(8) After paragraph (6)(h) there is inserted—

"(i) a current electoral identity card issued under section 13C of the Representation of the People Act 1983(**13**)

Voting by persons with disabilities

6.—(1) Rule 36 (voting by persons with disabilities)(**14**) of the local elections rules is amended as follows.

(2) In paragraph (2), for "If" there is substituted "Subject to paragraph (2A), if".

(3) After paragraph (2) there is inserted—

"(2A) Paragraphs (2) to (7) of rule 34 shall apply in the case of a voter who applies under paragraph (1) as they apply in the case of a voter who applies under rule 34(1), but reading references to delivering a ballot paper as references to granting a voter's application.".

Tendered ballot papers

7. In rule 37(3) (tendered ballot paper) of the local elections rules after "where" there is inserted—

"(a) under paragraph (3) of rule 32 a ballot paper is not delivered to a person following his unsatisfactory answer to the question in paragraph (1A) of that rule(**15**); or

(b)".

Validity of declaration of identity

8.—(1) Rule 45 (preliminary proceedings and conduct of the count) of the local elections rules is amended as follows.

(2) In paragraph (2), the words from "it is returned" to the end are to be sub-paragraph (a) of that paragraph, and after "authenticated" there is inserted

", and

(b) in the case of an elector, that declaration of identity states the date of birth of the elector and the returning officer is satisfied that the date corresponds with the date supplied as the date of the elector's birth pursuant to section 10(4A)(b), 10A(1A)(b) or section 13A(2A)(b) of the Representation of the People Act 1983 (as applied by Schedule 1 to the Elected Authorities (Northern Ireland) Act 1989).".

(**10**) Paragraph (6)(f) was inserted by paragraph 41(b) of Schedule 1 to S.I. 1987/168.
(**11**) 1995 c. 21.
(**12**) Paragraph (6)(g) was inserted by Article 4(2) of S.I. 1991/1715.
(**13**) Section 13C was inserted by section 4(2) of the Electoral Fraud (Northern Ireland) Act 2002.
(**14**) Rule 36 was substituted by article 18 of the Local Elections (Northern Ireland) (Amendment) Order 2001 (S.I. 2001/417).
(**15**) Paragraph (1A) was inserted by article 4(2) of this Order.

(3) After paragraph (2) there is inserted—

"(2A) In the case of an elector, unless section 10(4B), 10A(1B) or 13A(2B) of the Representation of the People Act 1983 (as applied by Schedule 1 to the Elected Authorities (Northern Ireland) Act 1989) applies, the declaration of identity referred to in paragraph (2) shall be taken not to be duly signed unless the returning officer is satisfied that the signature on the declaration corresponds with the signature supplied as the elector's signature pursuant to section 10(4A)(a), 10A(1A)(a) or 13A(2A)(a) of the Representation of the People Act 1983 (as so applied)".

Form of declaration of identity

9. In the front of form 5 (form of declaration of identity) in the Appendix to the local elections rules, after "sent" insert "*Except where the voter is a proxy*: My date of birth is…".

Interpretation of the 1985 Order

10. At the end of article 2(2) (interpretation) of the 1985 Order insert:

""the 1983 Act" means the Representation of the People Act 1983;

"the 1989 Act" means the Elected Authorities (Northern Ireland) Act 1989".

Absent votes for an indefinite period at local election

11.—(1) Paragraph 1 of Part I of Schedule 2 to the 1985 Order(**16**) is amended as follows.

(2) For the word "and" after sub-paragraph (1)(b) there is substituted—

"(ba) the application states the applicant's date of birth and the Chief Electoral Officer is satisfied that the date stated corresponds with the date supplied as the date of the applicant's birth pursuant to section 10(4A)(b), 10A(1A)(b) or 13A(2A)(b) of the 1983 Act (as applied by Schedule 1 to the 1989 Act);

(bb) the application is signed and (unless section 10(4B), 10A(1B) or 13A(2B) of the 1983 Act, as applied by Schedule 1 to the 1989 Act, applies) the Chief Electoral Officer is satisfied that the signature on the application corresponds with the signature supplied as the applicant's signature pursuant to section 10(4A)(a), 10A(1A)(a) or 13A(2A)(a) of the 1983 Act (as so applied),

(bc) the application either states the applicant's national insurance number or states that he does not have one and the Chief Electoral Officer is satisfied as mentioned in sub-paragraph (1A), and".

(3) After sub-paragraph (1) there is inserted—

"(1A) For the purposes of sub-paragraph (1)(bc), the Chief Electoral Officer must be satisfied—

(a) if the application states a national insurance number, that the requirements of sub-paragraph (1B) are met, or

(b) if the application states that the applicant does not have a national insurance number, that no such number was supplied as his national insurance number pursuant to section 10(4A)(c)(i), 10A(1A)(c)(i) or 13A(2A)(c)(i) of the 1983 Act (as applied by Schedule 1 to the 1989 Act).

(1B) The requirements of this sub-paragraph are met if—

(**16**) Part 1 of Schedule 2 was substituted by Schedule 2 to the Local Elections (Northern Ireland) (Amendment) Order 1987. (S.I. 1987/168).