Draft Legislation: *This is a draft item of legislation and has not yet been made as a UK Statutory Instrument. This draft has been replaced by a new draft, Local Elections (Northern Ireland) (Amendment) Order 2002 ISBN 0-11-042458-1*

Draft Order in Council 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

2001 No.

NORTHERN IRELAND

Local Elections (Northern Ireland) (Amendment) Order 2001

Made - - - -	*2001*
Coming into force - -	*2001*

At the Court at , the day of 2001

Present,

The Queen's Most Excellent Majesty in Council

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(**1**), is pleased by and with the advice of Her Privy Council, to order, and it is hereby ordered, as follows:—

1.—(1) This Order may be cited as the Local Elections (Northern Ireland) (Amendment) Order 2001.

(2) This Order shall come into force fourteen days after the day on which it is made except for the purpose of any election where the last day for the publication of the notice of election in respect of that election precedes that day.

2. In this Order—

"the 1962 Act" means the Electoral Law Act (Northern Ireland) 1962(**2**), and

"the local elections rules" means the rules in Schedule 5 to that Act(**3**).

3.—(1) Section 41 of the 1962 Act (prohibition of unauthorised expenditure) is amended as follows.

(**1**) 1998 c. 47.
(**2**) 1962 c. 14 (N.I.).
(**3**) Schedule 5 was substituted by the Schedule in Schedule 1 to the Local Elections (Northern Ireland) Order 1985 (S.I.1985/454).

(2) In subsection (2)(ii) (election expenses not exceeding £5 in aggregate incurred by individual backer or disparager)(**4**) for the words from "not exceeding" to "concerted with others," substitute "incurred by any person which do not exceed in the aggregate the permitted sum (and are not incurred by that person as part of a concerted plan of action)".

(3) After subsection (2) insert:

"(2A) For the purposes of subsection (2)(ii)—

(a) "the permitted sum" means £50 together with an additional 0.5p for every entry in the register of local electors for the district electoral area in question as it has effect on the last day for publication of notice of the election; and

(b) expenses are to be regarded as incurred by a person "as part of a concerted plan of action" if they are incurred by that person in pursuance of any plan or other arrangement whereby that person and one or more other persons are to incur, with a view of promoting or procuring the election of the same candidate, expenses which (disregarding subsection (2)(ii)) might fall within subsection (1) above.".

4.—(1) Section 42 of the 1962 Act (limit on candiates' election expenses)(**5**) is amended as follows.

(2) In subsection (1) for the words "£219" and "4.8p" substitute "£242" and "4.8p", respectively.

(3) Omit the words "to be used at the election (as first published)".

(4) After section 42(1) insert:

"(1A) In subsection (1) "the register of electors" means the register of local electors for the district electoral area in question as it has effect on the last day for publication of notice of the election.".

5. Omit sections 85 to 90 of the 1962 Act (withdrawal or abatement of election petition).

6. Omit section 95(3) of the 1962 Act (incapacity of candidate at a local election reported guilty of a corrupt or illegal practice).

7. In section 96 of the 1962 Act (candidate or other person reported personally guilty of a corrupt or illegal practice)(**6**), for subsections (3) and (4) substitute:

"(3) Subject to the provisions of subsection (3A) and section 113(2) to (6), a candidate or other person reported by an election court personally guilty of a corrupt or illegal practice—

(a) shall during the relevant period specified in subsection (4) be incapable of—

(i) being registered as an elector or voting at any local election in Northern Ireland, or

(ii) holding any elective office; and

(b) if already holding any such office shall vacate it as from the date of report.

(3A) The incapacity incurred by subsection (3)(a)(i) applies to a candidate or other person reported personally guilty of a corrupt practice under paragraph 4 of Schedule 9 (personation) or of an illegal practice under paragraph 12A of Schedule 9 (other voting offences)(**7**).

(4) For the purposes of subsection (3) the relevant period is the period beginning with the date of the report and ending—

(**4**) The sum of £5 was substituted by Schedule 1 to S.I. 1987/168.
(**5**) Section 42(1) was amended (so far as material) by article 9 of S.I. 1985/454; the sums in section 42(1) are as substituted by S.I. 1997/868.
(**6**) Section 96 has been amended but the amendment is not relevant to the subject matter of this Order.
(**7**) Paragraph 12A was inserted by Schedule 1 to S.I. 1987/168.

(a) in the case of a person reported personally guilty of a corrupt practice, five years after that date, or

(b) in the case of a person reported personally guilty of an illegal practice, three years after that date.".

8. For section 112(1) of the 1962 Act (incapacities resulting from conviction for corrupt and illegal practices)(**8**) substitute:

"(1) Subject to subsection (1A), a person convicted of a corrupt or illegal practice—

(a) shall, during the relevant period specified in subsection (1B), be incapable of—

(i) being registered as an elector or voting at any local election in Northern Ireland, or

(ii) holding any elective office; and

(b) if already holding any such office shall vacate it subject to and in accordance with subsections (1C) and (1D).

(1A) The incapacity imposed by subsection (1)(a)(i) applies only to a person convicted of a corrupt practice under paragraph 4 of Schedule 9 (personation) or of an illegal practice under paragraph 12A of Schedule 9 (other voting offences).

(1B) For the purposes of subsection (1)(a) the relevant period is the period beginning with the date of the conviction and ending—

(a) in the case of a person convicted of a corrupt practice, five years after that date, or

(b) in the case of a person convicted of an illegal practice, three years after that date;

except that if (at any time within that period of five or three years) a court determines on an appeal by that person against the conviction that it should not be upheld, the relevant period shall end at that time instead.

(1C) Where subsection (1)(b) applies to any person, he shall (subject to subsection (1D)) vacate the office in question at the appropriate time for the purposes of this section, namely —

(a) the end of the period which is the period prescribed by law within which notice of appeal may be given, or an application for leave to appeal may be made, by him in respect of the conviction, or

(b) if (at any time within that period) that period is extended—

(i) the end of the period as so extended, or

(ii) the end of the period of three months beginning with the date of the conviction,

whichever is the earlier.

(1D) If (before the appropriate time mentioned in subsection (1C)) notice of appeal is given, or an application for leave to appeal is made, by such a person in respect of the conviction, he shall vacate the office in question at the end of the period of three months beginning with the date of the conviction unless—

(a) such an appeal is dismissed or abandoned at any earlier time (in which case he shall vacate the office at that time), or

(b) at any time within that period of three months the court determines on such an appeal that the conviction should not be upheld (in which case the office shall not be vacated by him).

(**8**) Section 112(1) was amended by Schedule 1 to S.I. 1987/168.

(1E) Where such a person vacates an office in accordance with subsection (1C) or (1D), no subsequent determination of a court that his conviction should not be upheld shall entitle him to resume the office.

(1F) If a person convicted of a corrupt or illegal practice has already been elected to any elective office, he shall (in addition to being subject to the incapacities mentioned in subsection (1)(a) above) be suspended from performing any of the functions of that office, during the period of suspension specified in subsection (1G).

(1G) For the purposes of subsection (1F), the period of suspension is the period beginning with the date of the conviction and ending with—

(a) the date on which the office is vacated in accordance with subsection (1C) or (1D), or

(b) where subsection (1D)(b) applies, the date on which the court determines that the conviction should not be upheld.

(1H) Any incapacities or other requirement applying to a person by virtue of subsection (1F) applies in addition to any punishment imposed under section 108 or 109(**9**); but each of those subsections has effect subject to section 113.".

9. In section 130(1) of the 1962 Act (interpretation)(**10**)—

(a) after the definition of "electors" insert:

""elective office" means any office to which a local election is held in Northern Ireland;" and

(b) omit the definition of "public office".

10. For rule 5(3) (nomination of candidates) of the local elections rules substitute:

"(3) The description, if any, must consist of either—

(a) a description (of not more than 6 words in length) which is authorised as mentioned in rule 5A(1); or

(b) the word "Independent".".

11. After rule 5 (nomination of candidates) of the local elections rules insert—

"**Nomination papers: name of registered political party**

5A.—(1) A nomination paper may not include a description of a candidate which is likely to lead voters to associate the candidate with a registered political party unless the party is a qualifying party in relation to the district electoral area and the description is authorised by a certificate—

(a) issued by or on behalf of the registered nominating officer of the party, and

(b) received by the returning officer before the last time for the delivery of nomination papers.

(2) A person shall be guilty of a corrupt practice if he fraudulently purports to be authorised to issue a certificate under paragraph (1) on behalf of a registered political party's nominating officer.

(3) For the purposes of the application of this rule in relation to an election—

(a) "registered political party" means a party which was registered under Part II of the Political Parties, Elections and Referendums Act 2000(**11**) at the time by which

(**9**) Sections 108 and 109 have been amended by Schedule 1 to S.I. 1987/168.
(**10**) Section 130 has been amended but the amendments are not relevant to the subject matter of this Order.
(**11**) 2000 c. 41.

the notice of election is required to be published by virtue of rule 1 ("the relevant time");

(b) a registered party is a qualifying party in relation to a district electoral area if the party was at the relevant time registered in the Northern Ireland register maintained under that Part of that Act.".

12. For rule 6(7) of the local elections rules (subscription of nomination papers) substitute:

"(7) In this rule "elector"—

(a) means a person who is registered in the register of local electors for the district electoral area in question on the last day for publication of notice of the election; and

(b) includes a person then shown in that register as below voting age if (but only if) it appears from the register that he will be of voting age on the day fixed for the poll.".

13.—(1) Rule 10 (decisions as to validity of nomination papers) of the local elections rules is amended as follows.

(2) At the beginning of paragraph (3) insert "Subject to paragraph (3A),".

(3) After paragraph (3) insert—

"(3A) If in the returning officer's opinion a nomination paper breaks rule 5A(1), he shall give a decision to that effect as soon as practicable after the last time for the delivery of nomination papers.".

(4) In paragraph (4) for "Where he" substitute "Where the returning officer".

14. In rule 16 (the ballot papers) of the local elections rules, after paragraph (2) insert—

"(2A) If a candidate who is the subject of a party's authorisation under rule 5A(1) so requests, the ballot paper shall contain, against the candidate's particulars, the party's registered emblem (or, as the case may be, one of the party's registered emblems).

(2B) The request must—

(a) be made in writing to the returning officer, and

(b) be received by him before the last time for the delivery of nomination papers.".

15.—(1) Rule 26 of the local elections rules (equipment of polling stations) is amended as follows.

(2) After paragraph (3) insert:

"(3A) The returning officer shall also provide each polling station with—

(a) at least one large version of the ballot paper which shall be displayed inside the polling station for the assistance of voters who are partially-sighted;

(b) a device falling within the description in paragraphs (5) to (10) for enabling voters who are blind or partially sighted to vote without any need for assistance from the presiding officer or any companion (within the meaning of rule 36(1)).".

(3) After paragraph (4) insert:

"(5) The device must be capable of being attached firmly to a ballot paper and of being removed from it after use without damage to the paper.

(6) On the left-hand side of the device there shall be tabs of equal size which satisfy the conditions in paragraphs (7) to (10).