Draft Order laid before Parliament under section 96(2) of the Northern Ireland Act 1998 for approval by resolution of each House of Parliament.

DRAFT STATUTORY INSTRUMENTS

2001 No.

NORTHERN IRELAND

Northern Ireland Assembly (Elections) Order 2001

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

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

And whereas I have, in accordance with section 7(1) and (2)(h) of the Political Parties, Elections and Referendums Act 2000(**1**), consulted the Electoral Commission about these Regulations;

Now, therefore, in exercise of the powers conferred on me by sections 34(4) and 35(1) of the Northern Ireland Act 1998(**2**), I hereby make the following Order:—

Citation, commencement and revocation

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

(2) This Order shall come into force on the fourteenth day after the day on which it was made.

(3) The New Northern Ireland Assembly (Elections) Order 1998(**3**) is hereby revoked.

Interpretation

2. Unless the context otherwise requires, in this Order and any provision applied by this Order—

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

"1983 Act" means the Representation of the People Act 1983(**5**);

"1985 Act" means the Representation of the People Act 1985(**6**);

"1998 Act" means the Northern Ireland Act 1998;

(**1**) 2000 c. 41.
(**2**) 1998 c. 47; the powers in section 34(4) are extended by section 34(5) and (6) and those in section 35(1) are extended by section 35(2) and (5).
(**3**) S.I.1998/1287; that Order has effect as if made under sections 34(4) and 35 of the Northern Ireland Act 1998 by virtue of paragraphs 10 and 11 of Schedule 14 to that Act.
(**4**) 1962 c. 14 (N.I.).
(**5**) 1983 c. 2.
(**6**) 1985 c. 50.

"1985 Order" means the Local Elections (Northern Ireland) Order 1985(**7**);

"2001 Regulations" means the Representation of the People (Northern Ireland) Regulations 2001(**8**);

"Assembly" means the Northern Ireland Assembly and "Assembly election" means an election to that Assembly;

"date of the poll" means the date set by section 31(1) or (2) or 32(4) of the 1998 Act or, in the case of a by-election, the date set by the Chief Electoral Officer under article 7(2) below; and

"election rules" means the rules in Schedule 1 to the 1983 Act, as applied by Schedule 1 to this Order.

Application of certain provisions for Assembly elections

3.—(1) The provisions of the 1983 Act, the Elections (Northern Ireland) Act 1985(**9**) and the 1985 Act which are specified in the left-hand column of Schedule 1 to this Order shall, subject to—

(a) any modifications and exceptions specified in relation to those provisions in the right-hand column of that Schedule, and

(b) the provisions of paragraph (3) below,

apply for the purposes of an Assembly election.

(2) The provisions of the 2001 Regulations, the Election Petition Rules 1964(**10**) and the Planning (Control of Advertisements) Regulations (Northern Ireland) 1992(**11**) which are specified in the left-hand column of Schedule 2 to this Order shall, subject to—

(a) any modifications and exceptions specified in relation to those provisions in the right-hand column of that Schedule, and

(b) the provisions of paragraph (3) below,

apply for the purposes of an Assembly election.

(3) Unless the context otherwise requires, in the provisions applied by Schedules 1 and 2 to this Order—

(a) any reference to a parliamentary election (except the references specified in paragraph (5) below) shall be construed as a reference to an Assembly election and a reference to a parliamentary general election shall be construed as a reference to a general election to the Assembly;

(b) any reference to the parliamentary elections rules shall be construed as a reference to those rules as applied for the purposes of Assembly elections;

(c) any reference to a parliamentary elector shall be construed as a reference to an elector entitled to vote at an Assembly election and references to the register of electors shall be construed accordingly;

(d) any reference to a parliamentary election petition shall be construed as a reference to an Assembly election petition;

(e) any reference to an overseas elector shall be disregarded;

(f) any provision having effect only in Great Britain or any part of it, including a provision relating to a local government election or local government electors, shall be disregarded;

(**7**) S.I. 1985/454.
(**8**) S.I. 2001/400.
(**9**) 1985 c. 2.
(**10**) S.R. & O. (N.I.) 1964 No. 28 as amended by S.R. & O. (N.I.) 1985 No. 347.
(**11**) S.R. & O. (N.I.) 1992 No. 448.

(g) any reference to a return in the context of a return to the writ of election and return to Parliament shall be construed as a reference to the declaration of result made by the returning officer under rule 50 of the elections rules;

(h) in the heading of the forms in Schedule 3 to the 2001 Regulations which are applied by this Order, for the words "REPRESENTATION OF THE PEOPLE ACTS" substitute "NORTHERN IRELAND ASSEMBLY ELECTION"; and

(i) any reference to an enactment or instrument made under an enactment shall be construed as a reference to that enactment or instrument as applied by this Order.

(4) Section 35(2)(h) of the Judicature (Northern Ireland) Act 1978(**12**) shall apply in relation to an Assembly election petition as it applies in relation to a parliamentary election petition and as though the references in that section to the 1983 Act were references to that Act as applied by Schedule 1 to this Order.

(5) The references to "parliamentary election" to which paragraph (3)(a) above does not apply are those in section 160(4)(a)(i) of the 1983 Act(**13**) and section 173(1)(a)(i) of that Act(**14**).

Franchise

4. A person is entitled to vote at an Assembly election in a constituency if on the day of the poll he would be entitled to vote as an elector at a local election in a district electoral area wholly or partly comprised in that constituency.

Returning officer and registration officer

5.—(1) The Chief Electoral Officer for Northern Ireland shall be the returning officer for each constituency.

(2) That Officer shall be the electoral registration officer for the purposes of the provisions applied by this Order (as he is for parliamentary and local elections).

(3) Section 14(5) and 14A(2) and (3) of the 1962 Act(**15**) (appointment of temporary deputy and delegation to assistants) shall have effect in relation to the Chief Electoral Officer in his capacity as returning officer and electoral registration officer under this Order.

Substitutes

6.—(1) The Chief Electoral Officer ("the Officer") shall act in accordance with this article where —

(a) he has been notified by—

(i) an election court or the High Court under section 144 or 146 of the 1983 Act, as applied by article 3 of, and Schedule 1 to, this Order, or

(ii) the presiding officer of the Assembly under section 35(3) of the 1998 Act,

that a vacancy exists in the seat of a member of the Assembly,

(b) that member had given a notice under rule 8A of the elections rules ("the relevant notice"), and

(c) the vacancy has arisen otherwise than as a result of the resignation of a person who has been returned as a member for more than one constituency.

(**12**) 1978 c. 23; section 35(2)(h) was amended by Schedule 8 to the 1983 Act.
(**13**) Section 160(4) was substituted by Schedule 17 to the Political Parties, Elections and Referendums Act 2000 (c. 41).
(**14**) Section 173 was substituted by section 136 of the Political Parties, Elections and Referendums Act 2000.
(**15**) Sections 14 and 14A were substituted by article 6 of the Electoral Law (Northern Ireland) Order 1972 (S.I. 1972/1264) (N.I. 13).

(2) The Officer shall take such steps as appear to him to be reasonable to contact the person whose name and address appear as the first choice in the relevant notice to ask that person whether he will state in writing that he is willing and able to be returned as a member of the Assembly.

(3) Where—

(a) within such period as the Officer considers reasonable—

(i) he decides that the steps he has taken to contact that person have been unsuccessful, or

(ii) he has not received from that person a statement in writing that he is willing and able to be returned as a member of the Assembly, or

(b) that person has stated in writing that he is not willing or able to be so returned,

the Officer shall repeat the procedure required by paragraph (2) above in respect of the person (if any) whose name and address appear as the second choice in the relevant notice or, where sub-paragraph (a) or (b) above applies in respect of that person, in respect of the person (if any) whose name and address appear as the third choice in that notice; and the Officer shall continue to repeat the procedure until the seat is filled or the names in the list exhausted.

(4) Where a person whose name and address appear in the relevant notice states in writing in response to the question from the Officer under paragraph (2) above (including that paragraph as applied by paragraph (3) above) that he is willing and able to be returned as a member of the Assembly, the Officer shall (subject to paragraph (5) below) declare that person to be so returned.

(5) Where under paragraph (3) above the Officer has asked the person whose name appears as the second or, as the case may be, other subsequent choice in the relevant notice the question set out in paragraph (2) above prior to the receipt of a statement from a person whose name appears as an earlier choice in that notice that he is willing and able to be returned as a member of the Assembly, that statement shall not have effect for the purposes of paragraph (4) above unless—

(a) the first-mentioned person has stated in writing that he is not willing and able to be so returned, or

(b) no statement in writing that he is willing and able to be so returned has been received from him by the Officer in response to the Officer's question within such period as the Officer considers reasonable.

(6) The Officer shall give public notice of a declaration under paragraph (4) above and send it to the presiding officer of the Assembly.

By-elections

7.—(1) This article applies where the Chief Electoral Officer has been notified by—

(a) an election court or the High Court under section 144 or 146 of the 1983 Act, as applied by article 3 of, and Schedule 1 to, this Order, or

(b) the presiding officer of the Assembly under section 35(3) of the 1998 Act,

that a vacancy exists in the seat of a member of the Assembly and either the conditions in article 6(1)(b) and (c) above are not satisfied or no person has been declared a member to fill the vacancy under article 6(4) above.

(2) Where this article applies, the Chief Electoral Officer shall set a date as the date of the poll for a by-election to fill the vacancy.

Northern Ireland Office
2001

One of Her Majesty's Principal Secretaries of State