

EXPLANATORY MEMORANDUM TO
THE CONTROL OF DONATIONS AND REGULATION OF LOANS ETC.
(EXTENSION OF THE PRESCRIBED PERIOD) (NORTHERN IRELAND)
ORDER 2010

2010 No. Draft

1. This explanatory memorandum has been prepared by the Northern Ireland Office (NIO) and is laid before Parliament by Command of Her Majesty.

2. Purpose of the instrument

2.1 Although political parties and other recipients in Northern Ireland must report donations and loans received over specified thresholds to the Electoral Commission, the Commission is under a statutory duty not to disclose details of these donations and loans. This period of confidentiality is due to end on 31 October 2010 but may be extended by Order. This Order extends the period of confidentiality in relation to donations and loans for four months until 1 March 2011 to allow for consultation on longer term policy on this issue.

3. Matters of special interest to the Joint Committee on Statutory Instruments

3.1 None.

4. Legislative Context

4.1 The Political Parties, Elections and Referendums Act 2000 introduced new reporting and publication requirements in relation to donations to UK political parties and other recipients. The Electoral Administration Act 2006 made similar provision in relation to loans. These provisions were not introduced to Northern Ireland immediately because of the need to apply them with modifications. These modifications were applied by provisions contained in the Northern Ireland (Miscellaneous Provisions) Act 2006 and the Electoral Administration Act 2006 (Regulation of Loans etc: Northern Ireland) Order 2008. The modifications provide, amongst other things, that the Electoral Commission may not disclose details of any loans or donations made to Northern Ireland political parties or recipients during the ‘prescribed period’. The prescribed period is due to end on 31 October 2010, but may be extended by Order by up to two years at a time.

4.2 This Order extends the prescribed period in relation to both loans and donations for four months. The prescribed period will now end on 1 March 2011 unless a further extension Order is made.

5. Territorial Extent and Application

5.1 This instrument extends to Northern Ireland only.

6. European Convention on Human Rights

6.1 The Minister of State for Northern Ireland, Hugo Swire, has made the following statement regarding Human Rights:

‘In my view the provisions of the Control of Donations and Regulation of Loans etc. (Extension of the Prescribed Period) (Northern Ireland) Order 2010 are compatible with the Convention rights.’

7. Policy background

7.1 Across the UK, political parties and other recipients must report donations and loans over specified thresholds to the Electoral Commission. However, unlike the rest of the UK, the Commission is under a statutory obligation not to publish or disclose details of donations and loans received by Northern Ireland recipients. This is to protect against the risk of donor intimidation in Northern Ireland. The confidentiality period - known formally as “the prescribed period” - is temporary and the law currently provides for this to end on 31 October 2010. However, the prescribed period may be extended by Order for up to two years.

7.2 The Government is committed to consulting fully before taking any long term decision on whether to extend the prescribed period or allow it to expire. However, full public consultation scheduled to commence earlier this year was delayed firstly due to the talks at Hillsborough Castle and then because of the general election. There is now insufficient time to conduct a full consultation exercise and to bring forward any subsequent necessary legislation before the prescribed period expires.

7.3 For this reason, an Order to extend the prescribed period for four months until 1 March 2011 is considered necessary. This will allow for the necessary time to consult fully on longer term policy on this issue.

8. Consultation outcome

8.1 The Electoral Commission was consulted prior to the making of this Order and have welcomed the proposal to extend the prescribed period for a further four months.

9. Guidance

9.1 This Order is not accompanied by any guidance.

10. Impact

10.1 There is no impact on business, charities or voluntary bodies.

10.2 There is no impact on the public sector.

10.3 An Impact Assessment has not been prepared for this instrument.

11. Regulating small business

11.1 The legislation does not apply to small business.

12. Monitoring & review

12.1 A full review and consultation on whether to extend the prescribed period further will be published shortly.

13. Contact

Lee Hegarty, Elections Unit, Northern Ireland Office Tel: 020 7210 6569 or email: Lee.Hegarty@nio.x.gsi.gov.uk can answer any queries regarding the instrument.

Northern Ireland Office

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