

Draft Order laid before Parliament under section 84(4) of the Northern Ireland Act 1998, for approval by resolution of each House of Parliament.

D R A F T S T A T U T O R Y I N S T R U M E N T S

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(a) 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(b) 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(c)) on or before the day on which this Order comes into force.

Interpretation

- 2.—(1) In this Order—

(a) 2000 c. 41; amendments have been made to section 7 of this Act but those amendments are not relevant to this Order.
(b) 1998 c. 47; section 84 was amended by section 34(1) of the Elections Act 2001 (c. 7).
(c) 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(a);
“Local Elections Rules” means the rules in Schedule 5 to the 1962 Act(b); and
“the 1985 Order” means the Local Elections (Northern Ireland) Order 1985(c).

(2) The Interpretation Act (Northern Ireland) 1954(d) 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)(e) 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(f) 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.

(a) 1962 c. 14 (N.I.); relevant amendments are referenced in this Order.
(b) 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.
(c) 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.
(d) 1954 c. 33 (N.I.).
(e) Section 11(1) was amended by S.I. 2009/225.
(f) 2001 c. 7.

Revocations

8.—(1) In Schedule 2 to the Police and Criminal Evidence (Northern Ireland) Order 1989(a), 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(b), 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

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)(c) (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(d) 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)(e) (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(f) (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)—

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- (a) S.I. 1989/1341 (N.I. 12).
(b) S.I. 2009/225.
(c) 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.
(d) S.I. 1972/1264 (N.I. 13).
(e) Section 34(4) was amended by S.I. 1987/168.
(f) Section 37 was amended by S.I. 1972/1264 (N.I.15) and S.I. 1987/168.

- (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(a) (payment of expenses at an election through election agent) substitute—

"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(b) (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—

(a) Section 39 was amended by S.I. 1972/1264 (N.I.15) and S.I. 1987/168.
(b) Section 40 was amended by S.I. 1972/1264 (N.I.13).

“Expenses incurred at a local election otherwise than for election purposes

40A.—(1) Sections 39, 43 and 44(a) 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)(b) 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.”.

10.—(1) Section 41(c) (prohibition of unauthorised expenses) is amended as follows.

(2) In subsection (1)—

- (a) for the words from “sub-sections (2)” to “Ninth Schedule” substitute “subsections (2) to (3)”; and
- (b) after “be incurred” insert “after a person becomes a candidate”.

(3) After subsection (1) insert—

“(1A) For the purposes of subsection (1) expenditure incurred before or on the date when a candidate becomes a candidate at a local election is to be treated as having been incurred after that date if it is incurred in connection with anything which is used or takes place after that date.”.

(4) For subsection (2)(i) substitute—

“(i) restrict the publication of any matter relating to the election in—

- (a) a newspaper or other periodical;
- (b) a broadcast made by the British Broadcasting Corporation; or
- (c) a programme included in any service licensed under Part 1 or 3 of the Broadcasting Act 1990(d) or Part 1 or 2 of the Broadcasting Act 1996(e); or”.

11.—(1) Section 42 (limitation of expenses at an election) is amended as follows.

(2) For the heading substitute “Limitation of election expenses”.

(3) In subsection (1) for “, and for a candidate” to the end of that subsection substitute “. This subsection does not apply at a local election.”.

(4) After subsection (1) insert—

“(1ZA) The election expenses incurred by or on behalf of a candidate at a local election must not in the aggregate exceed the maximum amount specified in subsection (1ZB).

(1ZB) The maximum amount is £600 together with 5p for every entry in the register of electors.”.

(5) In subsection (1A) for “(1)” substitute “(1ZA)”.

(6) After subsection (6) insert—

(a) Section 43 was amended by S.I. 1972/1264 and S.I. 1987/168.
(b) Sections 52A and 52B are inserted by this Order.
(c) Section 41 was amended by S.I. 1972/1264 (N.I.13); S.I. 1986/168; and S.I. 2001/417.
(d) 1990 c. 42; amendments have been made to this Act but they are not relevant to this Order.
(e) 1996 c. 55; amendments have been made to this Act but they are not relevant to this Order.

“(7) Where at a local election a poll is countermanded or abandoned by reason of a candidate’s death, the maximum amount of election expenses shall, for any of the other candidates who remain validly nominated, be twice or, if there has been a previous increase under this subsection, three times what it would have been but for any increase under this subsection; but the maximum amount shall not be affected for any candidate by any change in timing.”.

12. In section 44(4) (disputed claims) omit “and (4)” and for “they apply” substitute “it applies”.

13.—(1) Section 46(a) (return as to expenses at an election) is amended as follows.

(2) For the heading substitute “return as to election expenses”.

(3) In subsection (1)—

(a) omit “in the form numbered 4 in the Tenth Schedule,”; and

(b) for the words from “that candidate” to the end substitute

“that candidate—

(a) a statement of all payments made by the election agent together with all the relevant bills or receipts; and

(b) a statement of all the election expenses incurred by or on behalf of that candidate.”.

(4) For subsections (2) to (4) substitute—

“(2) A return under this section must—

(a) specify the poll by virtue of which the return is required;

(b) specify the candidate’s name and the election agent’s name;

(c) deal under a separate heading with any expenses in respect of which a return is required by virtue of section 41(5); and

(d) deal under a separate heading with any expenses that are on account of remuneration or expenses of speakers at public meetings.

(3) The return must also contain as respects that candidate—

(a) a statement of all payments made—

(i) by the candidate in accordance with section 40(1) or (1A), or

(ii) by any other person in accordance with section 40(2),

together with all bills or receipts relating to any such payments made in accordance with section 40(1A) or (2);

(b) a statement of all disputed claims of which the election agent is aware;

(c) a statement of all the unpaid claims, if any, of which the election agent is aware, in respect of which application has been or is about to be made to the High Court or county court;

(d) any declarations of value falling to be made by the candidate’s election agent by virtue of section 40A(2) or 52B(2);

(e) a declaration of the amount of expenses which are to be regarded as election expenses incurred by or on behalf of the candidate by virtue of section 52A(5);

(f) a statement of donations made to the candidate or the candidate’s election agent which complies with the requirements of paragraphs 11 and 12 of Schedule 3A; and

(a) Section 46 was amended by S.I. 1972/1264 (N.I. 13) and S.I. 1987/168.

- (g) a statement of the amount, if any, of money provided by the candidate from the candidate's own resources for the purpose of meeting election expenses incurred by the candidate or on his or her own behalf.”.

14. In section 47(1) and (2)(a) (declaration as to expenses at a parliamentary election) omit “before a justice of the peace”.

15.—(1) Section 52(b) (inspection of returns and declarations) is amended as follows.

(2) For subsection (1) substitute—

“(1) Where the returning officer receives any return or declaration under section 41 or 46 the officer must—

- (a) make a copy of the return or declaration, and any accompanying documents, available for public inspection at an appropriate place and at all reasonable times for the period of 12 months beginning with the date on which they are received by the officer; and
- (b) if requested to do so by a person, and on payment of a fee of 20p for each side of each page, supply the person with a copy of the return, declaration or accompanying documents or any part of them.

(1A) In subsection (1) “appropriate place” means—

- (a) the office of the returning officer; or
- (b) some other convenient place chosen by the returning officer.

(1B) If a return under section 46 contains a statement of donations in accordance with paragraph 10 of Schedule 3A the returning officer must ensure that any copy of the statement made available for public inspection or supplied under subsection (1) excludes the address of any individual who has made a donation.”.

(3) In subsection (2) for “two years” substitute “12 months”.

16. After section 52 insert—

“Meaning of “election expenses” at a local election

52A.—(1) In this Part “election expenses” in relation to a candidate at a local election means (subject to subsection (2) and section 52B) any expenses incurred at any time in respect of any matter specified in Part 1 of Schedule 3B which is used for the purposes of the candidate's election after the date when the candidate becomes a candidate at the election.

(2) No election expenses are to be regarded as incurred by virtue of subsection (1) or section 52B in respect of any matter specified in Part 2 of Schedule 3B.

(3) In this section and in section 52B, “for the purposes of the candidate's election” means with a view to, or otherwise in connection with, promoting or procuring the candidate's election at the election.

(4) For the purposes of this Part election expenses are incurred by or on behalf of a candidate at an election if they are incurred—

- (a) by the candidate or the candidate's election agent, or
- (b) by any person authorised by the candidate or the candidate's election agent to incur expenses.

(a) Section 47(4) was inserted by S.I. 1987/168.

(b) The sum in section 52 was converted by virtue of the Decimal Currency Act 1969 (c.19); the section was amended by S.I. 1985/454 and S.I. 1987/168.

(5) A reference in this Part to a candidate at an election, in relation to election expenses, includes (where the context allows) a reference to a person who becomes a candidate at the election after the expenses are incurred.

(6) In this Part and in Parts 9 and 10, any reference (in whatever terms) to promoting or procuring a candidate's election at a local election includes doing so by prejudicing the electoral prospects of another candidate at the election.

(7) Schedule 3B has effect.

Property, goods, services etc provided free of charge or at a discount

52B.—(1) This section applies where, in the case of a candidate at a local election—

(a) either—

(i) property or goods is or are transferred to the candidate or the candidate's election agent free of charge or at a discount of more than 10 per cent of the market value of the property or goods, or

(ii) property, goods, services or facilities is or are provided for the use or benefit of the candidate free of charge or at a discount of more than 10 per cent of the commercial rate for the use of the property or for the provision of the goods, services or facilities, and

(b) the property, goods, services or facilities is or are made use of by or on behalf of the candidate in circumstances such that, if any expenses were to be (or are) actually incurred by or on behalf of the candidate in respect of that use, they would be (or are) election expenses incurred by or on behalf of the candidate.

(2) Where this section applies—

(a) an amount of election expenses determined in accordance with this section ("the appropriate amount") is to be treated, for the purposes of this Part, as incurred by the candidate, and

(b) the candidate's election agent must make a declaration of that amount, unless that amount is not more than £50.

This subsection has effect subject to Part 2 of Schedule 3B.

(3) Where subsection (1)(a)(i) applies, the appropriate amount is such proportion of either—

(a) the market value of the property or goods (where the property or goods is or are transferred free of charge), or

(b) the difference between the market value of the property or goods and the amount of expenses actually incurred by or on behalf of the candidate in respect of the property or goods (where the property or goods is or are transferred at a discount),

as is reasonably attributable to the use made of the property or goods as mentioned in subsection (1)(b).

(4) Where subsection (1)(a)(ii) applies, the appropriate amount is such proportion of either—

(a) the commercial rate for the use of the property or the provision of the goods, services or facilities (where the property, goods, services or facilities is or are provided free of charge), or

(b) the difference between that commercial rate and the amount of expenses actually incurred by or on behalf of the candidate in respect of the use of the property or the provision of the services or facilities (where the property, goods, services or facilities is or are provided at a discount),

as is reasonably attributable to the use made of the property, goods, services or facilities as mentioned in subsection (1)(b).

(5) Where the services of an employee are made available by an employer for the use or benefit of a candidate, then for the purposes of this section the commercial rate for the provision of those services is the amount of the remuneration and allowances payable to the employee by the employer in respect of the period for which the employee's services are so made available (but does not include any amount in respect of any contributions or other payments for which the employer is liable in respect of the employee).

(6) In this section "market value", in relation to any property or goods, means the price which might reasonably be expected to be paid for the property or goods on a sale in the open market; and paragraph 2(6)(a) of Schedule 3A applies with any necessary modifications for the purpose of determining, for the purposes of subsection (1) whether property or goods is or are transferred to a candidate or the candidate's election agent."

17.—(1) Section 53(a) (right to send election address post free) is amended as follows.

(2) In subsection (1) for "two ounces" substitute "60 grammes".

(3) Omit subsection (4).

18. After section 57(b) (rules for conduct of elections) insert—

"Returning officers: correction of procedural errors

57A.—(1) The returning officer at a local election may take such steps as the returning officer thinks appropriate to remedy any act or omission on the returning officer's part, or on the part of a relevant person, which—

- (a) arises in connection with any function the returning officer or relevant person has in relation to the election; and
- (b) is not in accordance with the rules or any other requirements applicable to the election.

(2) But a returning officer may not under subsection (1) re-count the votes given at an election after the result has been declared.

(3) These are the relevant persons—

- (a) the registration officer;
- (b) a presiding officer;
- (c) a person providing goods or services to the returning officer;
- (d) a deputy of any person mentioned in paragraph (a) to (c) or a person appointed to assist, or in the course of that person's employment assisting, such a person in connection with any function that person has in relation to the election."

19. After Schedule 3(c) to the 1962 Act insert—

(a) Section 53 was extended to apply to local elections by S.I. 1977/428. It was amended by S.I. 1985/454 and S.I. 2001/1149.
(b) Section 57 was amended by S.I. 1972/1264 (N.I. 13).
(c) Schedule 3 was repealed by the Elected Authorities (Northern Ireland) Act 1989 (c.3).

“SCHEDULE 3A

CONTROL OF DONATIONS TO CANDIDATES AT A LOCAL ELECTION

Part 1

Introductory

Operation and interpretation of Schedule

1.—(1) This Schedule has effect for controlling donations to candidates at a local election.

(2) The following provisions have effect for the purposes of this Schedule.

(3) “Relevant donation”, in relation to a candidate at an election, means a donation to the candidate or the candidate’s election agent for the purpose of meeting election expenses incurred by or on behalf of the candidate.

(4) In sub-paragraph (3) the reference to a donation for the purpose of meeting election expenses incurred by or on behalf of a candidate includes a reference to a donation for the purpose of securing that any such expenses are not so incurred; and a donation shall be taken to be a donation for either of those purposes if, having regard to all the circumstances, it must be reasonably assumed to be such a donation.

(5) “Donation” shall be construed in accordance with paragraphs 2 to 4.

(6) “2000 Act” means the Political Parties, Elections and Referendums Act 2000(a).

Donations: general rules

2.—(1) “Donation”, in relation to a candidate at an election, means (subject to paragraph 4)—

- (a) any gift to the candidate or the candidate’s election agent of money or other property;
- (b) any sponsorship provided in relation to the candidate (as defined by paragraph 3);
- (c) any money spent (otherwise than by the candidate, or the candidate’s election agent) in paying any election expenses incurred by or on behalf of the candidate;
- (d) any money lent to the candidate or the candidate’s election agent otherwise than on commercial terms;
- (e) the provision otherwise than on commercial terms of any property, services or facilities for the use or benefit of the candidate (including the services of any person).

(2) Where—

- (a) any money or other property is transferred to a candidate or the candidate’s election agent pursuant to any transaction or arrangement involving the provision by or on behalf of the candidate of any property, services or facilities or other consideration of monetary value, and

(a) 2000 c. 41. Relevant amendments to this Act were made by Schedules 6 and 7 of the Political Parties and Elections Act 2009 (c. 12).

- (b) the total value in monetary terms of the consideration so provided by or on behalf of the candidate is less than the value of the money or (as the case may be) the market value of the property transferred,

the transfer of the money or property shall (subject to sub-paragraph (4)) constitute a gift to the candidate or (as the case may be) the candidate's election agent for the purposes of sub-paragraph (1)(a).

(3) In determining—

- (a) for the purposes of sub-paragraph (1)(d), whether any money lent to a candidate or the candidate's election agent is so lent otherwise than on commercial terms, or
- (b) for the purposes of sub-paragraph (1)(e), whether any property, services or facilities provided for the use or benefit of a candidate is or are so provided otherwise than on such terms,

regard shall be had to the total value in monetary terms of the consideration provided by or on behalf of the candidate in respect of the loan or the provision of the property, services or facilities.

(4) Where (apart from this sub-paragraph) anything would be a donation both by virtue of sub-paragraph (1)(b) and by virtue of any other provision of this paragraph, sub-paragraph (1)(b) (together with paragraph 3) shall apply in relation to it to the exclusion of the other provision of this paragraph.

(5) The reference in sub-paragraph (1)(c) to money spent as mentioned in that provision is a reference to money so spent by a person, other than the candidate or the candidate's election agent, out of his or her own resources (with no right to reimbursement out of the resources of any such other person); and where, by virtue of sub-paragraph (1)(c), money so spent constitutes a donation to the candidate, the candidate shall be treated as receiving an equivalent amount on the date on which the money is paid to the creditor in respect of the expenses in question.

(6) In this paragraph—

- (a) any reference to anything being given or transferred to a candidate or the candidate's election agent includes a reference to its being given or transferred either directly or indirectly through any third person;
- (b) "gift" includes a bequest or any other form of testamentary disposition.

Sponsorship

3.—(1) For the purposes of this Schedule sponsorship is provided in relation to a candidate if—

- (a) any money or other property is transferred to the candidate or to any person for the benefit of the candidate, and
- (b) the purpose (or one of the purposes) of the transfer is (or must, having regard to all the circumstances, reasonably be assumed to be)—
 - (i) to help the candidate with meeting, or to meet, to any extent any defined expenses incurred or to be incurred by or on behalf of the candidate, or
 - (ii) to secure that to any extent any such expenses are not so incurred.

(2) In sub-paragraph (1)(b) "defined expenses" means expenses in connection with—

- (a) any conference, meeting or other event organised by or on behalf of the candidate,
- (b) the preparation, production or dissemination of any publication by or on behalf of the candidate, or
- (c) any study or research organised by or on behalf of the candidate.

(3) The following do not, however, constitute sponsorship by virtue of sub-paragraph (1) above—

- (a) the making of any payment in respect of—
 - (i) any charge for admission to any conference, meeting or other event, or
 - (ii) the purchase price of, or any other charge for access to, any publication;
- (b) the making of any payment in respect of the inclusion of an advertisement in any publication where the payment is made at the commercial rate payable for the inclusion of such an advertisement in any such publication.

(4) In this paragraph “publication” means a publication made available in whatever form and by whatever means (whether or not to the public at large or any section of the public).

Payments etc not to be regarded as donations

4.—(1) None of the following shall be regarded as a donation—

- (a) the provision of any facilities provided in pursuance of any right conferred on a candidate at an election by this Act;
- (b) the provision by an individual of the individual’s own services which the individual provides voluntarily in the individual’s own time and free of charge;
- (c) any interest accruing to a candidate or the candidate’s election agent in respect of any donation which is dealt with by the candidate or (as the case may be) the candidate’s election agent in accordance with section 56(2)(a) or (b)(a) of the 2000 Act (as applied by paragraph 7).

(2) There shall also be disregarded any donation whose value (determined in accordance with paragraph 5) is not more than £50.

Value of donations

5.—(1) The value of any donation falling within paragraph 2(1)(a) (other than money) shall be taken to be the market value of the property in question.

(2) Where, however, paragraph 2(1)(a) applies by virtue of paragraph 2(2), the value of the donation shall be taken to be the difference between—

- (a) the value of the money, or the market value of the property, in question, and
- (b) the total value in monetary terms of the consideration provided by or on behalf of the candidate or the candidate’s election agent.

(3) The value of any donation falling within paragraph 2(1)(b) shall be taken to be the value of the money, or (as the case may be) the market value of the property, transferred as mentioned in paragraph 3(1); and accordingly any value in monetary terms of any benefit conferred on the person providing the sponsorship in question shall be disregarded.

(4) The value of any donation falling within paragraph 2(1)(d) or (e) shall be taken to be the amount representing the difference between—

- (a) the total value in monetary terms of the consideration that would have had to be provided by or on behalf of the candidate or the candidate’s election agent in respect of the loan or the provision of the property, services or facilities if—
 - (i) the loan had been made, or
 - (ii) the property, services or facilities had been provided,

on commercial terms, and

- (b) the total value in monetary terms of the consideration (if any) actually so provided by or on behalf of the candidate or the candidate’s election agent.

(a) Section 56 was amended by S.I. 2007/2501 and section 9 of the Political Parties and Elections Act 2009 (c. 12).

(5) Where a donation such as is mentioned in sub-paragraph (4) confers an enduring benefit on the donee over a particular period, the value of the donation—

- (a) shall be determined at the time when it is made, but
- (b) shall be so determined by reference to the total benefit accruing to the donee over that period.

(6) In this paragraph “market value” in relation to any property, means the price which might reasonably be expected to be paid for the property on a sale in the open market.

Part 2

Controls on donations

Prohibition on accepting donations from impermissible donors

6.—(1) A relevant donation received by a candidate or the candidate’s election agent must not be accepted if—

- (a) the person by whom the donation would be made is not, at the time of its receipt by the candidate or (as the case may be) the candidate’s election agent, a permissible donor falling within section 54(2)(a) of the 2000 Act; or
- (b) the candidate or (as the case may be) the candidate’s election agent is (whether because the donation is given anonymously or by reason of any deception or concealment or otherwise) unable to ascertain the identity of the person offering the donation.

(2) For the purposes of this Schedule any relevant donation received by a candidate or the candidate’s election agent which is an exempt trust donation shall be regarded as a relevant donation received by the candidate or the candidate’s election agent from a permissible donor; and section 162(b) or the 2000 Act (interpretation: exempt trust donations) shall apply for the purposes of this Schedule as it applies for the purposes of that Act.

(3) But, for the purposes of this Schedule, any relevant donation received by a candidate or a candidate’s election agent from a trustee of any property (in the trustee’s capacity as such) which is not—

- (a) an exempt trust donation, or
- (b) a relevant donation transmitted by the trustee to the candidate or the candidate’s election agent on behalf of beneficiaries under the trust who are—
 - (i) persons who at the time of its receipt by the candidate or the candidate’s election agent are permissible donors falling within section 54(2) of the 2000 Act, or
 - (ii) the members of an unincorporated association which at that time is such a permissible donor,

shall be regarded as a relevant donation received by the candidate or the candidate’s election agent from a person who is not such a permissible donor.

(4) Where any person (“the principal donor”) causes an amount (“the principal donation”) to be received by a candidate or the candidate’s election agent by way of a relevant donation—

- (a) on behalf of himself or herself and one or more other persons, or

(a) Section 54 was amended by S.I. 2001/1184; S.I. 2004/366; S.I. 2007/2501; S.I. 2009/185; S.I. 2009/1941; and sections 9, 10, 20 and 39 of the Political Parties and Elections Act 2009 (c. 12) (some of which amendments are not yet in force).
(b) Section 162 was amended by S.I. 2004/366.

- (b) on behalf of two or more other persons,

then for the purposes of this Part each individual contribution by a person falling within paragraph (a) or (b) of more than £50 shall be treated as if it were a separate donation received from that person.

(5) In relation to each such separate donation, the principal donor must ensure that, at the time when the principal donation is received by the candidate or the candidate's election agent, the candidate or (as the case may be) the candidate's election agent is given—

- (a) (except in the case of a donation which the principal donor is treated as making) all such details in respect of the person treated as making the donation as are required by virtue of paragraph 11(c); and
- (b) (in any case) all such details in respect of the donation as are required by virtue of paragraph 11(a).

(6) Where—

- (a) any person ("the agent") causes an amount to be received by a candidate or a candidate's election agent by way of a donation on behalf of another person ("the donor"), and
- (b) the amount of the donation is more than £50,

the agent must ensure that, at the time when the donation is received by the candidate or the candidate's election agent, the candidate or (as the case may be) the candidate's election agent is given all such details in respect of the donor as are required by virtue of paragraph 11(c).

(7) A person who fails, without reasonable excuse, to comply with sub-paragraph (5) or (6) commits an offence.

(8) A person guilty of an offence under sub-paragraph (7) shall be liable—

- (a) on summary conviction, to a fine not exceeding the statutory maximum or to a term of imprisonment not exceeding 6 months (or both);
- (b) on conviction on indictment, to a fine or to a term of imprisonment not exceeding one year (or both).

Acceptance or return of donations

7.—(1) Sections 56 to 59 and section 60(3) to (5)(a) of the 2000 Act shall apply for the purposes of this Schedule in relation to—

- (a) a relevant donation received by a candidate or a candidate's election agent, and
- (b) the candidate or (as the case may be) the election agent,

as they apply in relation to a donation received by a registered party and the registered party.

(2) In the application of those sections in accordance with sub-paragraph (1)—

- (a) section 56(1) shall have effect as if the reference to the particulars relating to a donor which would be required to be included in a donation report by virtue of paragraph 2 of Schedule 6 (if the donation were a recordable donation within the meaning of the Schedule) were construed as a reference to the particulars which are required to be included in a return by virtue of paragraph 11(c);

(a) 2000 (c. 41); section 56 was amended by S.I. 2007/2501 and sections 9, 10, 12 and 39 of, and Schedule 6 to, the Political Parties and Elections Act 2009 (c. 12), although not all the amendments made by that Act are yet in force; section 57A was inserted by S.I. 2004/366 and repealed by S.I. 2009/185; and sections 58, 59 and 60 were amended by S.I. 2004/366.

- (b) section 56(3) shall have effect as if the reference to the party were omitted and the reference to the treasurer of the party were construed as a reference to the candidate or (as the case may be) the candidate's election agent; and
- (c) section 56(4) shall have effect as if the reference to the treasurer of the party were construed as a reference to the candidate or (as the case may be) the candidate's election agent.

Transfer of donations received by candidate to election agent

8.—(1) Sub-paragraph (2) applies in relation to any relevant donation received by a candidate after the deadline for appointing an election agent (unless the candidate is, or is deemed to be, his or her own election agent at the time of receipt of the donation).

(2) The candidate shall, on receipt of any such donation as is mentioned in sub-paragraph (1), forthwith deliver to his or her election agent—

- (a) the donation,
- (b) where paragraph 6(5) or (6) applies in relation to the donation, the information provided to the candidate in pursuance of that provision, and
- (c) any other information which the candidate has about the donation and its donor which might reasonably be expected to assist in the discharge of any duties imposed on the election agent, in relation to the donation, under this Part or Part 3 of this Schedule.

(3) Where a donation is delivered to an election agent in accordance with sub-paragraph (2), the donation shall be treated for the purposes of paragraph 6(1) to (4) and the provisions applied by paragraph 7 as if it had been—

- (a) originally received by the election agent, and
- (b) so received by the election agent on the date on which it was received by the candidate.

(4) Where a candidate receives a relevant donation before the deadline for appointing an election agent but at a time when an appointment of a person (other than the candidate) as election agent is in force the candidate shall either—

- (a) forthwith deliver the donation and the information mentioned in sub-paragraph (2)(b) and (c) to the agent, or
- (b) (if the candidate fails to do so) deal with the donation in accordance with section 56 of the 2000 Act.

(5) Sub-paragraph (3) shall have effect in relation to any relevant donation delivered to an election agent in accordance with sub-paragraph (4)(a) as it has effect in relation to a donation delivered to the election agent in accordance with sub-paragraph (2).

(6) Sub-paragraph (7) applies where—

- (a) a relevant donation received by a candidate before the deadline for appointing an election agent has been dealt with by the candidate in accordance with section 56 of the 2000 Act either because—
 - (i) it was received by the candidate at a time when no appointment of another person as the candidate's election agent was in force, or
 - (ii) although such an appointment was in force, the candidate was by virtue of sub-paragraph (4)(b) required to deal with the donation; and
- (b) an appointment of a person (other than the candidate) as election agent is in force at, or at any time after—
 - (i) the deadline for appointing an election agent, or
 - (ii) if later, the time when the candidate has dealt with the donation in accordance with section 56 of the 2000 Act.

(7) Subject to sub-paragraph (9), the candidate shall, as soon as reasonably practicable after the relevant time, deliver to the election agent—

- (a) the donation (if the candidate has accepted it), and
- (b) any information which the candidate has about the donation and the donor which might reasonably be expected to assist in the discharge of any duties imposed on the election agent, in relation to the donation, under Part 3 of this Schedule.

(8) The relevant time for the purposes of sub-paragraph (7) is—

- (a) the time mentioned in sub-paragraph (6)(b)(i) or (ii) (as the case may be) if the appointment of another person as election agent is in force at that time, or
- (b) otherwise, the time when any such appointment subsequently comes into force.

(9) The duty imposed on a candidate by sub-paragraph (7)(a) does not apply to any relevant donation to the extent to which it has been lawfully used by the candidate for the purpose of paying expenses at an election.

(10) In this paragraph—

- (a) any reference to the deadline for appointing an election agent is a reference to the latest time by which an election agent may in accordance with section 34 of this Act be named as election agent by the candidate; and
- (b) any reference to any provision of section 56 of the 2000 Act is a reference to that provision as applied by paragraph 7.

Evasion of restrictions on donations

9. Section 61 of the 2000 Act shall apply for the purposes of this Schedule as if—

- (a) any reference to donations were to relevant donations;
- (b) any reference to a registered party were, in relation to a relevant donation, a reference to a candidate or (as the case may be) the candidate's election agent; and
- (c) any reference in subsection (2) to the treasurer of a registered party were, in relation to a relevant donation, a reference to either the candidate or the candidate's election agent (or both).

Part 3

Reporting of donations

Statement of relevant donations

10. The candidate's election agent must include in any return required to be delivered under section 46 of this Act a statement of relevant donations which complies with paragraphs 11 and 12.

Donations from permissible donors

11. The statement must record, in relation to each relevant donation accepted by the candidate or the candidate's election agent—

- (a) the amount of the donation (if a donation of money, in cash or otherwise) or (in any other case) the nature of the donation and its value as determined in accordance with paragraph 5;
- (b) the date when the donation was accepted by the candidate or the candidate's election agent; and

- (c) the information about the donor which is, in connection with recordable donations to registered parties, required to be recorded in donation reports by virtue of paragraph 2 of Schedule 6(a) to the 2000 Act.

Donations from impermissible donors

- 12.**—(1) This paragraph applies to relevant donations falling within paragraph 6(1)(a) or (b).
- (2) Where paragraph 6(1)(a) applies, the statement must record—
- (a) the name and address of the donor;
 - (b) the amount of the donation (if a donation of money, in cash or otherwise) or (in any other case) the nature of the donation and its value as determined in accordance with paragraph 5; and
 - (c) the date when the donation was received, and the date when, and the manner in which, it was dealt with in accordance with section 56(2)(a) of the 2000 Act.
- (3) Where paragraph 6(1)(b) applies, the statement must record—
- (a) details of the manner in which the donation was made;
 - (b) the amount of the donation (if a donation of money, in cash or otherwise) or (in any other case) the nature of the donation and its value as determined in accordance with paragraph 5; and
 - (c) the date when the donation was received, and the date when, and the manner in which, it was dealt with in accordance with section 56(2)(b) of the 2000 Act.
- (4) In this paragraph any reference to any provision of section 56 of the 2000 Act is a reference to that provision as applied by paragraph 7.

SCHEDULE 3B

LOCAL ELECTION: ELECTION EXPENSES

Part 1

List of Matters

1

Advertising of any nature (whatever the medium used).

Expenses in respect of such advertising include agency fees, design costs and other costs in connection with preparing, producing, distributing or otherwise disseminating such advertising or anything incorporating such advertising and intended to be distributed for the purpose of disseminating it.

2

Unsolicited material addressed to electors (whether addressed to them by name or intended for delivery to households within any particular area).

(a) 2000 c. 41; paragraph 2 of Schedule 6 was amended by S.I. 2004/366; S.I. 2007/2501; and S.I. 2009/185.

Expenses in respect of such material include design costs and other costs in connection with preparing, producing or distributing such material (including the cost of postage).

3

Transport (by any means) of persons to any place.

Expenses in respect of the transport of such persons include the costs of hiring a means of transport for a particular period.

4

Public meetings (of any kind).

Expenses in respect of such meetings include costs incurred in connection with the attendance of persons at such meetings, the hire of premises for the purposes of such meetings or the provision of goods, services or facilities at them.

5

The services of an election agent or any other person whose services are engaged in connection with the candidate's election.

6

Accommodation and administrative costs.

PART 2

General Exclusions

7

The publication of any matter, other than an advertisement, relating to the election in—

- (a) a newspaper or periodical;
- (b) a broadcast made by the British Broadcasting Corporation;
- (c) a programme included in any service licensed under Part 1 or 3 of the Broadcasting Act 1990^(a) or Part 1 or 2 of the Broadcasting Act 1996^(b).

8

The provision of any facilities provided in pursuance of any right conferred on candidates at an election by this Act.

9

The provision by an individual ("A") of A's own services which A provides voluntarily in A's own time and free of charge.

10

- (1) Accommodation which is the candidate's sole or main residence.

(a) 1990 c. 42; amendments have been made to this Act but they are not relevant to this Order.
(b) 1996 c. 55; amendments have been made to this Act but they are not relevant to this Order.

(2) The provision by any other individual of accommodation which is that individual's sole or main residence if the provision is made free of charge.

11

(1) Transport by a means of transport which was acquired by the candidate principally for the candidate's own personal use.

(2) Transport provided free of charge by any other individual if the means of transport was acquired by that individual principally for his or her own personal use.

12

(1) Computing or printing equipment which was acquired by the candidate principally for the candidate's own personal use.

(2) The provision by any other individual of computing or printing equipment which was acquired by that individual principally for his or her own personal use if the provision is made free of charge.”.

20. In Schedule 10(a) to the 1962 Act (forms)—

- (a) omit form 4 (return of election expenses required by section 46); and
- (b) in form 5 (declaration of expenses required by section 47)—
 - (i) in paragraph (3) omit “in relation to my [the candidate's] personal expenses”;
 - (ii) omit paragraph (4); and
 - (iii) omit the words from “signed and declared by” to “Justice of the Peace for...”.

Part 2

Amendments to Part 9 (Questioning of elections) and Part 10 (Electoral misdemeanours)

21. The 1962 Act is amended as follows.

22. In section 96(b) (provisions applying to all persons reported personally guilty of a corrupt or illegal practice), for subsection (3A) substitute—

“(3A) The incapacity imposed by subsection (3)(a)(i) applies only to a candidate or other person reported personally guilty of—

- (a) a corrupt practice under paragraph 4 of Schedule 9 (personation);
- (b) a corrupt practice under paragraph 4A of that Schedule (offences relating to applications for postal or proxy votes); or
- (c) an illegal practice under paragraph 12A of that Schedule (other voting offences).”.

23. In section 98(1) (avoidance of election for general corruption, etc) for “, employments or hirings” substitute “or employments”.

24. In section 105(4)(c) (prosecution and trial of electoral misdemeanours) for “, illegal employment or illegal hiring” substitute “or illegal employment” and for “, paragraph 30 or paragraph 31” substitute “or paragraph 30”.

(a) Form 4 was amended by S.I. 1972/1264 (N.I.13) and S.I. 1985/454; form 5 was amended by S.I. 1985/45 and S.I. 1987/168; forms 1, 6, 7, 8, 9, 10, 11, 12, 14, 18, 19, 20 and 21 have been repealed and forms 13, 15, 16 and 17 are spent.

(b) Section 96(1) was amended by S.I. 1972/538 (N.I.1) and the Justice (Northern Ireland) Act 2002 (c.26); subsections (3) and (4) were substituted, and subsection (3A) inserted, by S.I.2001/417; subsection (5) was inserted by S.I. 1987/168.

(c) Section 105(1) was amended by S.I. 1981/1675 (N.I.26); subsection (8) was inserted by S.I. 1987/168.

25. In section 107(a) (power to except innocent act from being illegal practice, payment, employment or hiring) omit “or hiring” in the heading and in subsection (2) for the words “, employment or hiring” in each place in which they occur substitute “or employment”.

26. In section 108(4)(a)(i)(b) (penalties for corrupt practices) after “paragraph 4” in each place where it occurs insert “or 4A”.

27. In section 111(3)(c) (penalties for electoral offences by officers and other persons) for “a postmaster” substitute “an official designated by a universal service provider”.

28. In section 112(d) (incapacities resulting from convictions for corrupt or illegal practices), for subsection (1A) substitute—

“(1A) The incapacity imposed by subsection (1)(a)(i) applies only to a person convicted of—

- (a) a corrupt practice under paragraph 4 of Schedule 9 (personation);
- (b) a corrupt practice under paragraph 4A of Schedule 9 (offences relating to applications for postal or proxy votes); or
- (c) an illegal practice under paragraph 12A of Schedule 9 (other voting offences).”.

29. Schedule 9 to the 1962 Act is amended in accordance with paragraphs 30 to 39.

30. After paragraph 4 (personation) insert—

“Offences relating to applications for postal and proxy votes at a local election

4A.—(1) A person (“P”) is guilty of a corrupt practice if P—

- (a) engages in an act specified in sub-paragraph (2) at a local election, and
- (b) intends, by doing so, to deprive another of an opportunity to vote or to make for P or another a gain of a vote to which P or the other is not otherwise entitled or a gain of money or property.

(2) These are the acts—

- (a) applying for a postal or proxy vote as some other person (whether that other person is living or dead or is a fictitious person);
- (b) otherwise making a false statement in, or in connection with, an application for a postal or proxy vote;
- (c) inducing the registration officer or returning officer to send a postal ballot paper or any communication relating to a postal or proxy vote to an address which has not been agreed to by the person entitled to the vote;
- (d) causing a communication relating to a postal or proxy vote or containing a postal ballot paper not to be delivered to the intended recipient.

(3) In sub-paragraph (1)(b), property includes any description of property.

(4) In sub-paragraph (2) a reference to a postal vote or a postal ballot paper includes a reference to a proxy postal vote or a proxy postal ballot paper (as the case may be).

(5) For the purposes of this paragraph—

“postal ballot paper” means a ballot paper issued to a postal voter;

(a) Section 107(1A) was inserted by S.I. 1987/168.

(b) Section 108(1) and (2) was amended by 1984/703 (N.I.3); subsection (2) was also amended by S.I. 1985/454; subsection (4) was inserted by S.I. 1987/168.

(c) Section 111(1) was amended by S.I. 1984/703 (N.I.13); subsections (2) and (3) were amended by S.I. 1972/1264 (N.I.13); subsection (2A) was inserted, and subsection (3) amended, by S.I. 1987/168.

(d) Section 112(1) was amended, and subsections (1A) to (1H) inserted, by S.I. 2001/417.

“postal voter” means a person entitled to vote by post at an election as an absent voter or as a proxy; and

“proxy postal ballot paper” means a ballot paper issued to a proxy postal voter.”.

31.—(1) Paragraph 5A(a) (false statements in nomination paper, etc.), which becomes sub-paragraph (1), is amended as follows.

(2) Omit the word “or” before paragraph (b) and after that paragraph insert

“or

(c) a certificate authorising for the purposes of rule 5A of the Local Elections Rules the use by a candidate of a description if the person knows that the candidate is standing at another election in the same local government electoral area in which the poll is to be held on the same day as the election to which the certificate relates.”.

(3) After paragraph 5A(1) insert—

“(2) A person (“P”) is guilty of a corrupt practice if, in any document giving consent to his or her nomination as a candidate at a local election, P makes—

- (a) a statement of P’s date of birth;
- (b) a statement as to P’s qualification for being elected at that election; or
- (c) a statement that P is not a candidate at an election in the same local government electoral area the poll for which is to be held on the same day as the election to which the consent relates;

which P knows to be false in any particular.

(3) For the purposes of sub-paragraph (2), a statement as to P’s qualification is a statement—

- (a) that P is qualified for being elected,
- (b) that P will be qualified for being elected, or
- (c) that to the best of P’s knowledge and belief P is not disqualified for being elected.”

32. After paragraph 12A(7)(b) insert—

“(7A) A person is not guilty of an illegal practice under sub-paragraph (2)(b) or (3)(b) above only by reason of that person having marked a tendered ballot paper in pursuance of rule 37(1C) or (1E) of the Local Elections Rules.”.

33. In paragraph 15 for the words from “illegal payment” to “paragraphs 29, 30 and 31” substitute “illegal payment or illegal employment specified in paragraphs 29 and 30”.

34. In paragraph 17—

- (a) for “, advance or deposit” substitute “(of whatever nature)”; and
- (b) omit “or pays any money in contravention of sub-section (4) of that section.”.

35. After paragraph 17 insert—

“**17A.** A person who provides any money or other property in contravention of section 37A(1) (control of donations to candidates at local elections) is guilty of an illegal practice.”.

(a) Paragraph 5A was inserted by S.I. 2001/417.

(b) Paragraph 12A was inserted by S.I. 1985/454 and substituted by S.I. 1987/168.

36.—(1) Paragraph 21 is amended as follows.

(2) Omit sub-paragraph (1).

(3) For sub-paragraph (2) substitute—

“(2) Where any election expenses are incurred in excess of the maximum amount specified in section 42(1ZB) (limitation of election expenses) any candidate or election agent who—

- (a) incurred, or authorised the incurring of, the election expenses, and
- (b) knew or ought reasonably to have known that the expenses would be incurred in excess of that maximum amount, is guilty of an illegal practice.”.

37. After paragraph 25(a), which becomes sub-paragraph (1), insert—

“(2) Where—

- (a) the returning officer (“R”), fails or neglects to perform his or her functions in relation to an election under this Act, but
- (b) remedies that failure or neglect in full by taking steps under section 57A(1),

R shall not be guilty of an electoral offence under sub-paragraph (1).

(3) Sub-paragraph (2) does not affect any conviction which takes place, or any penalty which is imposed, before the date on which the failure or neglect is remedied in full.”.

38. In paragraph 27(3)(e)—

- (a) for the words “a declaration of secrecy, to remain with a blind voter” substitute “the declaration made by the companion of a voter with disabilities, to remain with a voter with disabilities”; and
- (b) after “number” insert “or other unique identifying mark”.

39.—(1) Paragraph 32A(b) is amended as follows.

(2) In sub-paragraph (2)(c) for “postmaster or his deputy” substitute “official designated by a universal service provider”.

(3) After sub-paragraph (2) insert—

“(3) Where—

- (a) the returning officer at a local election (“R”) is guilty of an act or omission in breach of R’s official duty, but
- (b) R remedies that act or omission in full by taking steps under section 57A(1),

R shall not be guilty of an electoral offence under sub-paragraph (1).

(4) Sub-paragraph (3) does not affect any conviction which takes place, or any penalty which is imposed, before the date on which the act or omission is remedied in full.”.

Part 3

Amendments to Part 11 (Miscellaneous and general)

40. The 1962 Act is amended as follows.

41. After section 122(c) insert—

-
- (a) Paragraph 25 was amended by Schedule 3 to the Elected Authorities (Northern Ireland) Act 1989 (c.3).
 - (b) Paragraph 32A was inserted by S.I. 1987/168.
 - (c) The references to the Northern Ireland Parliament in section 122 were substituted with references to the Northern Ireland Assembly by S.I. 1973/2163.

“Translations etc. of certain documents

122A.—(1) Subsections (2) and (3) apply to any document which by virtue of this Act is required or authorised to be given to voters or displayed in any place for the purposes of a local election.

(2) The person who is required or authorised to give or display the document must, as he or she thinks appropriate, give or display or otherwise make available in such form as he or she thinks appropriate—

- (a) the document in Braille;
- (b) the document in languages other than English;
- (c) graphical representations of the information contained in the document;
- (d) other means of making the information contained in the document accessible to persons who might not otherwise have reasonable access to the information.

(3) For the purposes of subsection (2)(b) any question as to whether a person is to give or display or otherwise make available a document in a language other than English is to be decided by the returning officer.

(4) The person required or authorised to give or display the document must also, as he or she thinks appropriate, make available the information contained in the document in such audible form as that person thinks appropriate.

(5) Subsections (2) and (4) do not apply to—

- (a) the nomination paper; or
- (b) the ballot paper.

(6) The returning officer may cause to be displayed at every polling station in the election an enlarged sample copy of the ballot paper.

(7) The sample copy mentioned in subsection (6)—

- (a) must have printed the words “Vote for as many candidates as you wish in order of preference” both at the top and immediately below the list of candidates; and
- (b) may include a translation of those words into such other languages as the returning officer thinks appropriate.

(8) The returning officer must provide at every polling station in the election an enlarged hand-held sample copy of the ballot paper for the assistance of voters who are partially sighted.

(9) The sample copy mentioned in subsection (8) must be clearly marked as a specimen provided only for the guidance of voters.”.

42. In section 129(b)(a) (computation of time) omit “, Maundy Thursday”.

43.—(1) Section 130(b) (interpretation) is amended as follows.

(2) In subsection (1) after the entry for “statutory provisions” insert—

““universal service provider” has the same meaning as in the Postal Services Act 2000(c);”.

(3) For subsection (3) substitute—

-
- (a) Section 129 was amended by S.I. 1987/168.
 - (b) Section 130 was amended by the Electoral Law Act (Northern Ireland) 1968 (c.20) (N.I.); the Electoral Law Act (Northern Ireland) 1969 (c.26) (N.I.); S.I. 1972/1264 (N.I. 13); S.I. 1985/454; S.I. 1987/168; Schedule 3 to the Elected Authorities (Northern Ireland) Act 1989 (c. 3); S.I. 1995/1948; S.I. 2001/417; and, in relation to the definition of “Minister” and “Ministry”, the functions of the Minister and Ministry of Home Affairs were transferred to the Secretary of State by S.I. 1973/2163.
 - (c) 2000 c. 26; section 4 of that Act makes provision for the meaning of universal service provider.

“(3) In Parts 6, 9 and 10 and Schedules 8 and 9 the expression “candidate” in relation to a local election (except where the context otherwise requires) is to be construed in accordance with subsection (3A).

(3A) A person (“P”) becomes a candidate at a local election—

- (a) on the last day for publication of the notice of the election if on or before that day P is declared by himself or herself or by others to be a candidate at the election, and
- (b) otherwise, on the day on which P is so declared by himself or herself or by others or on which P is nominated as a candidate at the election (whichever is the earlier).”.

Part 4

Amendments to the Local Elections Rules

44. Schedule 5 to the 1962(a) Act (Local Elections Rules) is amended as follows.

45. The timetable in rule 1(2) is amended as follows—

- (a) for the second column of the entry relating to the delivery of nomination papers substitute—

“Between the hours of 10 a.m. and 4 p.m. on any day after the day of publication of the notice of election but no later than 1 p.m. on the 16th day before election day.”; and

- (b) for the second column of the entry relating to publication of statement of persons nominated substitute—

“(a) If no objections to nomination papers are made, 6 p.m. on the 16th day before election day (or as soon as practicable thereafter).

(b) If any such objections are made, not before they are disposed of but not later than 24 hours after the last time for delivery of nomination papers.”.

46. The timetable in rule 1(3) is amended as follows—

- (a) for the second column of the entry relating to delivery of nomination papers substitute—

“Between the hours of 10 a.m. and 4 p.m. on any day after the day of publication of the notice of election but not later than 1 p.m. on the 7th day after the publication of the notice of election.”;

- (b) for the second column of the entry relating to the making of objections to nomination papers substitute—

“During the hours allowed for delivery of nomination papers and on the last such day during the hour following.”; and

- (c) for the second column of the entry relating to publication of statement of persons nominated substitute—

“(a) If no objections to nomination papers are made, 6 p.m. on the 7th day after the day of the publication of the notice of election (or as soon as practicable thereafter).

(b) If any such objections are made, not before they are disposed of but not later than 24 hours after the last time for delivery of nomination papers.”.

47. After rule 3 (returning officer) insert—

-
- (a) Schedule 5 to the 1962 Act was substituted in its entirety by S.I. 1985/454; relevant amendments to those rules as substituted are referenced in the appropriate places in this Order.

“Forms

3A. Where these rules require the use of a form set out in the Appendix, any form that has substantially the same effect may be used instead.”.

48. After rule 4(c) (notice of election) insert—

“(ca) the address to which the applications mentioned in paragraph (c) must be sent;”.

49. After rule 5(2)(a) (nomination of candidates) insert—

“(2A) If a candidate commonly uses—

- (a) a surname which is different from any other surname the candidate has, or
- (b) a forename which is different from any other forename the candidate has,

the nomination paper may state the commonly used surname or forename in addition to the other name.”.

50.—(1) Rule 9(b) (right to attend nomination) is amended as follows.

(2) In paragraph (1) after “returning officer” insert “, and subject to paragraph (5),”.

(3) After paragraph (4) insert—

“(5) One other person chosen by the candidate is entitled to be present at the delivery of the candidate’s nomination, and may afterwards, so long as the candidate stands nominated, attend the proceedings referred to in paragraph (1), but without any such right as is conferred by paragraph (3).”.

51.—(1) In rule 10(c) (decisions as to validity of nomination papers) for paragraphs (3) and (3A) substitute—

“(3) Subject to paragraph (3A), the returning officer must give the decision on any objection to a nomination paper—

- (a) as soon as practicable after it is made; and
- (b) in any event before the end of the period of 24 hours starting with the close of the period for delivery of nomination papers as set out in whichever timetable in paragraph (2) or (3) of rule 1 applies to the election.

(3A) If in the returning officer’s opinion a nomination paper breaks rule 5A(1) or (1B), the returning officer must give a decision to that effect—

- (a) as soon as practicable after delivery of the nomination paper; and
- (b) in any event, before the end of the period of 24 hours starting with the close of the period for delivery of nomination papers as set out in whichever timetable in paragraph (2) or (3) of rule 1 applies to the election.”.

52.—(1) Rule 12 (publication of nominations) is amended as follows.

(2) After paragraph (2) insert—

“(2A) If a person’s nomination paper gives a commonly used surname or forename in addition to another name, the statement must show the person’s commonly used surname or forename (as the case may be) instead of any other name.

(2B) Paragraph (2A) does not apply if the returning officer thinks—

(a) Rule 5 was amended by S.I. 2001/417 and S.I. 2010/1178.

(b) Rule 9(4) was inserted by paragraph 56 of Schedule 1 to the Electoral Administration Act 2006 (c.22).

(c) Paragraphs (3) and (4) were amended, and paragraph (3A) inserted, by S.I. 2001/417; paragraph (3A) was amended by S.I. 2010/1178.

- (a) that the use of the person’s commonly used name may be likely to mislead or confuse electors, or
- (b) that the commonly used name is obscene or offensive.

(2C) If paragraph (2B) applies, the returning officer must give notice in writing to the candidate of the reason for refusing to allow the use of the commonly used name.”.

(3) After paragraph (4) insert—

“(5) After the close of the poll, the Chief Electoral Officer must retain the statement of persons nominated in respect of each district electoral area.

(6) The statements must be retained until at the next local general election the results are declared under rule 56.”.

53. After rule 12 insert—

“Correction of minor errors

12A.—(1) The returning officer may, at any time before publication under rule 12 of the statement of persons nominated, correct minor errors in a nomination paper.

(2) Errors which may be corrected include—

- (a) errors as to a person’s electoral number;
- (b) obvious errors of spelling in relation to the details of a candidate; or
- (c) obvious errors of spelling in relation to the description of a registered political party (including a joint description) authorised as mentioned in rule 5A.

(3) Anything done by the returning officer in pursuance of this rule must not be questioned in any proceedings other than proceedings on an election petition.”.

54.—(1) Rule 16(a) (the ballot papers) is amended as follows.

(2) In paragraph (2) omit sub-paragraph (d).

(3) In paragraph (2A)—

- (a) after “If” insert “, on behalf of” and after “rule 5A(1)” insert “, the registered nominating officer of that party”;
- (b) after paragraph (2B) insert—

“(2C) If, on behalf of a candidate who is the subject of two or more parties’ authorisations under rule 5A(1B)(b) the registered nominating officers of those parties so request, the ballot paper must contain, against the candidate’s particulars, the registered emblem of one of those parties (or, as the case may be, one of its registered emblems).

(2D) The request mentioned in paragraph (2C) must be—

- (a) made in writing by the nominating officers of the parties jointly to the returning officer, and
- (b) received by the returning officer before the last time for the delivery of nomination papers.”.

(4) After paragraph (3) insert—

“(4) In this rule “registered nominating officer” means the person registered as a party’s nominating officer under the Political Parties, Elections and Referendums Act 2000(c) or a person authorised by the nominating officer to act on his or her behalf.”.

(a) Rule 16 was amended by S.I. 1987/168; paragraph 59 of Schedule 1 to the Electoral Administration Act 2006 (c.22); and is modified in the case of a combined election by paragraph 15 of the Schedule to the Elections Act 2001 (c.7).
 (b) Rule 5A was inserted by S.I. 2001/417 and amended by S.I. 2010/1178.
 (c) 2000 c.41.

55. After rule 16 insert—

“Corresponding number list

16A.—(1) The returning officer must prepare a list containing the numbers and other unique identifying marks of all the ballot papers sent in pursuance of rule 21(1) or provided in pursuance of rule 26(1).

(2) The form of corresponding number list to be prepared by the returning officer for the purpose of this rule must be in form 4A in the Appendix.

(3) The form of the corresponding number list to be prepared by the returning officer for the purpose of this rule when the poll at a local election is to be taken with the poll at an election under section 15 of the Representation of the People Act 1985(a) (combination of polls at Parliamentary, European Parliamentary and local elections) must be in form 4B in the Appendix.”.

56. In rule 19(2) (use of schools and public rooms) for “Measure” substitute “an Act”.

57. In rule 20(2)(b) (notice of poll) at the end of sub-paragraph (c) omit “and” and after sub-paragraph (d) insert—

“and the returning officer must as soon as practicable after giving such notice give a copy of it to each of the election agents.”.

58. In rule 21(c) (postal ballot papers) after paragraph (2) insert—

“(3) The returning officer must also send to those entitled to vote by post such information as the returning officer thinks appropriate about how to obtain—

- (a) translations into languages other than English of any directions to or guidance for voters sent with the ballot paper;
- (b) a translation into Braille of such directions or guidance;
- (c) graphical representations of such directions or guidance;
- (d) the directions or guidance in any other form (including any audible form).

(4) The returning officer must ensure that the return of the ballot paper and the declaration of identity is free of charge to the voter.”.

59.—(1) Rule 25(d) (issue of official poll cards) is amended as follows.

(2) In paragraph (1) after “practicable” insert “after the publication of the notice of election”.

(3) After paragraph (3)(c) insert

“; and

- (d) such other information as the returning officer thinks appropriate;

and different information may be provided in pursuance of sub-paragraph (d) to different electors or descriptions of electors.”.

60.—(1) Rule 26(e) (equipment of polling stations) is amended as follows.

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- (a) Section 15 was amended by section 3 of the European Communities (Amendment) Act 1986 (c.58) and section 3 of the Elections Act 2001 (c.7); other amendments made to section 15 are not relevant to this Order.
 - (b) Rule 20 has been amended in the case of a combined election by paragraph 16 of the Schedule to the Elections Act 2001 (c.7).
 - (c) Rule 21 was amended by S.I. 1987/168 and, in the case of a combined election, by paragraph 17 of the Schedule to the Elections Act 2001 (c.7).
 - (d) Rule 25 was amended by S.I. 1987/168 and, in the case of a combined election, by paragraph 18 of the Schedule to the Elections Act 2001 (c.7).
 - (e) Rule 26 was amended by S.I. 2001/417 and, in the case of a combined election, by paragraph 19 of the Schedule to the Elections Act 2001 (c.7).

(2) In paragraph (2) after “unlocked” insert “or, where the box has no lock, the seal being broken”.

(3) Omit paragraph (3)(b).

(4) After paragraph (3)(d) insert—

“(e) a list consisting of that part of the list prepared under rule 16A which contains the numbers (but not the other unique identifying marks) corresponding to those on the ballot papers provided to the presiding officer of the polling station.”.

(5) After paragraph (3ZB) insert—

“(3ZC) Subject to paragraph (3ZD), the list provided under paragraph (3)(e) must be in the form 8A in the Appendix.

(3ZD) Where the poll at a local election is to be taken with the poll at an election under subsection (1) or (2) of section 15 of the Representation of the People Act 1985(a), the list provided under paragraph (3)(e) must be in the form 8B in the Appendix.

(3ZE) Where proof has been given to the returning officer’s satisfaction of the death of a candidate named in the ballot paper as an independent candidate (within the meaning of rule 61), the returning officer must provide each presiding officer with sufficient number of notices informing the voters that the candidate has died for display in every compartment of every polling station.”.

61.—(1) Rule 27 (appointment of polling and counting agents) is amended as follows.

(2) In paragraph (1)(b) for “one counting agent” substitute “counting agents”.

(3) After paragraph (1) insert—

“(1A) The returning officer may limit the number of counting agents, so however that—

(a) the number is the same in the case of each candidate; and

(b) the number allowed to a candidate may not (except in special circumstances) be less than the number obtained by dividing the number of clerks employed on the counting by the number of candidates.”.

(4) In paragraph (2) for “second” substitute “fifth”.

(5) In paragraph (4) omit the words from the beginning to “paid polling agents, and”.

62. In rule 28(a)(b) (notification of requirement of secrecy) for “assisting a blind voter” substitute “assisting a voter with disabilities”.

63. In rule 29(3)(a) (admission to polling station) omit “chief”.

64. In rule 30(2)(a) (keeping of order in station) omit “in or near that station”.

65. In rule 31 (sealing of ballot boxes)—

(a) after “lock it up” insert “(if it has a lock)”; and

(b) after “so locked” insert “(if it has a lock)”.

66. After rule 32(4)(c) (questions to be put to voters) insert—

“(5) In the case of an elector in respect of whom a notice has been issued under section 13BA(9)(d) of the Representation of the People Act 1983, the reference in the question at

(a) 1985 c. 50; section 15 was amended by section 3 of the European Communities (Amendment) Act 1986 (c. 3) and section 3 of the Elections Act 2001 (c. 7). Other amendments made to this section are not relevant to this Order.

(b) Rule 28 was substituted by S.I. 1987/168.

(c) Rule 32 was amended by S.I. 2002/2835 and the Electoral Administration Act 2006 (c.22). It has been modified in the case of a combined election by paragraph 20 of the Schedule to the Elections Act 2001 (c.7) (“the 2001 Act”).

(d) Section 13BA was inserted by section 6 of the Northern Ireland (Miscellaneous Provisions) Act 2006 (c.33).

paragraph (1)(a)(i) to reading from the register must be taken as a reference to reading from the notice.”.

67. For rule 33 (challenge of voter) substitute—

“Challenge of voter

33. A person shall not be prevented from voting by reason only that—

- (a) a candidate or an election or polling agent declares that he or she has reasonable cause to believe that the person has committed an offence of personation, or
- (b) the person is arrested on the grounds that he or she is suspected of committing or of being about to commit such an offence.”.

68.—(1) Rule 34(a) (voting procedure) is amended as follows.

(2) Omit paragraph (1)(a).

(3) In paragraph (1)(c) for “counterfoil” substitute “list mentioned in rule 26(3)(e) beside the number of the ballot paper to be issued to the elector”.

(4) Paragraph (6) is amended as follows—

- (a) in each place in which it occurs omit the word “current”;
- (b) after sub-paragraph (i) insert—
 - “(j) a Blind Person’s SmartPass issued under the Northern Ireland Concessionary Fares Scheme for use from 1st May 2002;
 - (k) a War Disabled SmartPass issued under the Northern Ireland Concessionary Fares Scheme for use from 1st May 2002;
 - (l) a 60+ SmartPass issued under the Northern Ireland Concessionary Fares Scheme for use from 1st October 2008.”; and

(c) omit the words from “In sub-paragraph (a)” to the end.

(5) After paragraph (6) insert—

“(6A) In paragraph (6)(a) “licence to drive a motor vehicle” means a licence granted under—

- (a) Part 3 of the Road Traffic Act 1972(b) or Part 3 of the Road Traffic Act 1988(c);
- (b) the Road Traffic (Northern Ireland) Order 1981(d); or
- (c) any corresponding enactment for the time being in force,

and includes a Community licence within the meaning of those enactments.”.

(6) In paragraph (8)(c) for “official” substitute “number and other unique identifying”.

69. After rule 34 insert—

“Disclosure of information regarding ballot papers

34A.—(1) During the taking of the poll the presiding officer and the clerks appointed to attend at the polling station may not disclose how many ballot papers have been issued to voters; but this is subject to paragraph (2).

(a) Rule 34 was amended by S.I. 1995/1948; S.I. 2002/2835; S.I. 2003/1245; and paragraph 1 of Schedule 4 to the Northern Ireland (Miscellaneous Provisions) Act 2006. It has been modified in the case of a combined election by paragraph 21 of the Schedule to the 2001 Act.

(b) 1972 c.20. This Act was repealed by the Road Traffic (Consequential Provisions) Act 1988 (c.54).

(c) 1988 c.52.

(d) S.I. 1981/154.

- (2) The presiding officer may disclose that information to—
 - (a) the returning officer, or
 - (b) any other person in accordance with directions given by the returning officer.
- (3) Any direction under paragraph (2)(b) must be given before the commencement of the poll.”.

70.—(1) Rule 41(a) (procedure on close of poll) is amended as follows.

- (2) In paragraph (1)(a) after “key” insert “(if it has a lock)”.
- (3) After paragraph (1)(d) insert—
 - “(da) the lists prepared under rule 16A including the part that was completed in accordance with rule 34(1)(c) (in these rules referred to as “the completed corresponding number lists”).”.
- (4) In paragraph (1)(e) omit “the counterfoils of the used ballot papers and”.
- (5) In paragraph (2) for “the counterfoils of the used ballot papers and” substitute “the completed corresponding number lists or”.

71.—(1) Rule 44 (attendance at counting of votes) is amended as follows.

- (2) In paragraph (1)(b) after “candidates” insert “and one other person chosen by each of them”.
- (3) In paragraph (2) for “he is satisfied that the efficient counting of the votes will not be impeded” substitute
 - “the returning officer—
 - (a) is satisfied that the efficient counting of the votes will not be impeded; and
 - (b) has either consulted the election agents or thought it impracticable to do so.”.

72. In rule 45(4)(b) (preliminary proceedings and conduct of the count) after “the numbers” insert “or other unique identifying marks”.

73. In rule 46(1)(d) (rejected ballot papers) after “printed number” insert “and other unique identifying mark”.

74. In rule 57(2)(c) (sealing up of ballot papers) for “counterfoils and” substitute “the completed corresponding number lists, or of”.

75. In rule 58(1) (forwarding of documents)—

- (a) in sub-paragraph (d) omit “counterfoils and”; and
- (b) after that sub-paragraph insert—
 - “(da) the packets of the completed corresponding number lists,”.

76.—(1) Rule 59 (orders for production of documents) is amended as follows.

- (2) In paragraph (1)(b) for “counterfoils and” substitute “the completed corresponding number lists or of”.
- (3) In paragraph (2) for the words “a packet of counterfoils and” substitute “a sealed packet of the completed corresponding number lists or of”.
- (4) For paragraph (6) substitute—

(a) Rule 41 was amended by S.I. 2001/417; the Electoral Administration Act 2006 (c.22); and the Northern Ireland (Miscellaneous Provisions) Act 2006 (c.33). It has also been modified in the case of a combined election by paragraph 25 of the Schedule to the Elections Act 2001 (c.7).

(b) Rule 45 was amended by S.I. 2002/2835.

(c) Rules 57 and 58 were both amended by paragraph 1 of Schedule 4 to the Northern Ireland (Miscellaneous Provisions) Act 2006 (c.33); and prior to that rule 58 had been amended by S.I. 2001/417.

“(6) The production from proper custody of—

- (a) a ballot paper purporting to have been used at any election, and
- (b) a completed corresponding number list with a number marked in writing beside the number of the ballot paper,

shall be prima facie evidence that the elector whose vote was given by that ballot paper was the person whose entry in the register of electors (or on a notice issued under section 13BA(9) of the Representation of the People Act 1983) at the time of the election contained the same number as the number written as mentioned in sub-paragraph (b).”.

(5) In paragraph (7) for “counterfoils and” substitute “the completed corresponding number lists or of”.

77.—(1) Rule 60 (retention and public inspection of documents) is amended as follows.

(2) In the heading omit “and public inspection”.

(3) In paragraph (1) for “six” substitute “12”.

(4) Omit paragraphs (2) and (3).

78. For rule 61(a) (countermand or abandonment of poll on death of candidate) substitute—

“Independent candidate

61.—(1) This rule applies if at a contested election proof is given to the returning officer’s satisfaction before the result of the election is declared that one of the persons named or to be named in the ballot paper as an independent candidate has died.

(2) Subject to this rule and rule 62, these rules apply to the election as if the candidate had not died.

(3) The following provisions of these rules do not apply in relation to the deceased candidate—

- (a) rule 29(1)(c) and (d) (admission to polling station), and
- (b) rule 44(1)(b) to (d) (attendance at counting of votes).

(4) If the number of persons standing nominated is equal to (or where more than one independent candidate has died, less than) the number of seats to be filled the returning officer must—

- (a) if polling has not begun, countermand the poll;
- (b) if polling has begun, direct that the poll is abandoned;
- (c) subject to rule 64, treat the election as an uncontested election.

(5) For the purposes of this rule a person is named or to be named in the ballot papers as an independent candidate if the description (if any) on the candidate’s nomination paper is not authorised as mentioned in rule 5A(1) or (1B).

Deceased independent candidate’s votes are equal to or exceed the quota

62.—(1) This rule applies if at an election mentioned in rule 61(1) the deceased candidate’s votes are equal to or exceed the quota (ascertained as mentioned in rule 48).

(2) Rule 56(1) (declaration of result) does not apply but the returning officer must—

- (a) declare that the votes given to the deceased candidate are equal to or exceed the quota (as the case may be),

(a) Rule 61 has been modified in the case of a combined election by paragraph 28 of the Schedule to the Elections Act 2001 (c.7).

- (b) declare that no candidate is elected, and
- (c) give public notice of —
 - (i) the number of first preference votes given for each candidate,
 - (ii) any transfer of votes,
 - (iii) the total number of votes for each candidate at each stage of the count at which such transfer took place,
 - (iv) the order in which the successful candidates would have been elected if it were not for the provisions of this rule, and
 - (v) the number of rejected ballot papers under each head shown in the statement of rejected ballot papers prepared under rule 46(3).

(3) The proceedings with respect to the election must be commenced afresh subject to the following provisions of this rule.

(4) The fresh proceedings must be conducted in accordance with the following timetable (and the timetables in rule 1 do not apply)—

Timetable

<i>Proceedings</i>	<i>Time</i>
Publication of notice of election.	Within 21 days from the day of the election mentioned in rule 61.
Delivery of notices of withdrawal of candidature.	Between the hours of 10 a.m. and 4 p.m. on any day after the publication of the notice of election but not later than 1 p.m. on the 7th day after the day of publication of the notice of election.
Publication of statement of persons nominated.	After 1 p.m. but not later than 6 p.m. on the 7th day after the day of publication of the notice of election.
Polling.	Between 7 a.m. and 10 p.m. on the day fixed by the returning officer which may not be earlier than the 18th nor later than the 21st day after the last day for delivery of notices of withdrawal of candidature.

(5) No fresh nomination is necessary in the case of a person who was shown in the statement of candidates nominated as standing nominated in respect of the election mentioned in rule 61 and no other nomination may be made.

(6) Rule 8 (delivery of nomination papers) does not apply but the returning officer must fix the place at which notices of withdrawal of candidature are to be delivered to him or her in accordance with rule 11.

(7) Rule 2(a) applies in computing any period of time for the purpose of the timetable set out in paragraph (4).

Party candidate

63.—(1) This rule applies if—

(a) Rule 2 was amended by S.I. 1987/168 and paragraph 48 of Schedule 1 to the Electoral Administration Act 2006 (c.22).

- (a) at a contested election proof is given to the returning officer's satisfaction before the result of the election is declared that one of the persons named or to be named as a candidate in the ballot paper has died, and
 - (b) that person is standing in the name of a registered political party or two or more registered political parties.
- (2) The returning officer must—
- (a) countermand notice of the poll, or
 - (b) if polling has begun, direct that the poll be abandoned.
- (3) The proceedings with respect to the election must be commenced afresh subject to the following provisions of this rule.
- (4) The fresh proceedings must be conducted in accordance with the following timetable (and the timetables in rule 1 do not apply)—

Timetable

<i>Proceeding</i>	<i>Time</i>
Publication of notice of election.	Within 21 days from the day on which the returning officer becomes satisfied of the candidate's death.
Delivery of nomination papers (pursuant to paragraph (6)).	Between the hours of 10 a.m. and 4 p.m. on any day after the day of publication of the notice of election but not later than 1 p.m. on the 7th day after the day of publication of the notice of election.
Delivery of notices of withdrawal of candidature.	Within the time for delivery of nomination papers.
The making of objections to nomination papers (submitted pursuant to paragraph (6) only).	During the hours allowed for delivery of nomination papers and on the 7th day after the day of publication of the notice of election during the hour following.
Publication of statement of persons nominated.	<ul style="list-style-type: none"> (a) If no objections to nomination papers are made, 6 p.m. on the 7th day after the day of publication of the notice of election (or as soon as practicable thereafter). (b) If any such objections are made, not before they are disposed of but not later than 24 hours after the last time for delivery of nomination papers.
Polling.	Between 7 a.m. and 10 p.m. on the day fixed by the returning officer which may not be earlier than the 18th nor later than the 21st day after the last day for delivery of notices of withdrawal of candidature.

(5) No fresh nomination is necessary in the case of a person who was shown in the statement of candidates nominated as standing nominated in respect of the election mentioned in paragraph (1).

(6) No other nomination may be made except for a person standing in the name of the same registered political party or parties in whose name or names the deceased candidate was standing.

(7) Rule 2 applies in computing any period of time for the purpose of the timetable set out in paragraph (4).

- (8) For the purposes of this rule—
- (a) a person (“P”) stands in the name of a registered political party if P’s nomination paper contains a description which is authorised as mentioned in rule 5A(1) or (1B), and
 - (b) a registered political party is a party which is registered under Part 2 of the Political Parties, Elections and Referendums Act 2000(a) in the Northern Ireland register (within the meaning of that Act).

Abandoned poll

64.—(1) This rule applies to a poll which is abandoned in pursuance of rules 61(4)(b) or 63(2)(b).

(2) The presiding officer at a polling station must take the like steps (so far as not already taken) for the delivery to the returning officer of ballot boxes and ballot papers and other documents as the presiding officer is required to take on the close of the poll.

(3) It is not necessary for a ballot paper account to be prepared or verified.

(4) No step or further step is to be taken for the counting of the ballot papers or of the votes.

(5) The returning officer must seal up all the ballot papers (whether the votes on them have been counted or not) and it is not necessary to seal up counted and rejected ballot papers in separate packets.

(6) The returning officer must dispose of the ballot papers and other documents in the returning officer’s possession as the returning officer is required to do on the completion of the counting of the votes.

(7) The provisions of these rules as to the inspection, production, retention and destruction of ballot papers and other documents relating to a poll at an election apply subject to paragraphs (8) and (9).

(8) Ballot papers on which the votes were neither counted nor rejected must be treated as counted ballot papers.

(9) No order is to be made for—

- (a) the production or inspection of any ballot papers, or
- (b) the opening of a sealed packet of the completed corresponding number lists or of certificates as to employment on the day of the poll, unless the order is made by a court with reference to a prosecution.”.

79. The Appendix of Forms in Schedule 5 to the 1962 Act is amended in accordance with paragraphs 80 to 91.

80. In the Form of nomination paper (form 1), for the first table following the words “candidate at this election” substitute—

<i>“Candidate’s surname</i>	<i>Other names in full</i>	<i>Commonly used surname (if any)</i>	<i>Commonly used forenames (if any)</i>	<i>Description (if any)</i>	<i>Home address in full</i>
					”

(a) 2000 c.41.

81. In the Notes(a) following the Form of nomination paper—

(a) after paragraph 2 insert—

“2A. Where a candidate commonly uses a name which is different from any other name he or she has, the commonly used name may also appear on the nomination paper, but if it does so, the commonly used name (instead of any other name) will appear on the ballot paper.

2B. But the ballot paper will show the other name if the returning officer thinks—

- (a) that the use of the commonly used name may be likely to mislead or confuse electors, or
- (b) that the commonly used name is obscene or offensive.”;

(b) after paragraph 5 insert—

“6. A person who is unable to sign this form because of blindness or other disability may contact the deputy returning officer for advice on how he or she may subscribe the form.”.

82.—(1) The Candidate’s consent to nomination (form 2)(b) is amended as follows.

(2) In the paragraph beginning “I declare that I have attained”—

- (a) for “21” substitute “18”;
- (b) before “Commonwealth” insert “qualifying”; and
- (c) for “Community” substitute “Union”.

(3) After that paragraph insert “My date of birth is [DD/MM/YEAR]”.

(4) After the paragraph beginning “I further declare that to the best of my knowledge” insert—

“I declare that I am not a candidate at an election in the same local government electoral area the poll for which is to be held on the same day as the election to which this consent relates.”.

83. In the Directions as to printing the ballot paper (form 4)(c)—

(a) in paragraph 2(b) after “marked” insert “(except where paragraph 3(d) applies in which case each column must be separated by a double vertical rule)”.

(b) in paragraph 3(a) omit “, occupations”;

(c) for paragraph 3(b) substitute—

“(b) the surname of each candidate must be printed by itself in large capitals, and the candidate’s full name, address and description (as given on the statement of persons nominated) must be printed underneath (subject to sub-paragraph (c)), in ordinary type;”;

(d) after paragraph 3A insert—

“3B. The number and other unique identifying mark may be printed close to each other on the back of the ballot paper.”.

84. After form 4 insert—

(a) The Notes to form 1 were amended by S.I. 2001/417.
(b) Form 2 in the Appendix of Forms was amended by S.I.1995/1948 and by section 3 of, and Schedule 2 to, the Elected Authorities (Northern Ireland) Act 1989 (c.3).
(c) Form 4 was amended by S.I. 2001/417 and paragraph 61 of Schedule 1 to the Electoral Administration Act 2006 (c.22).

“ **4A. Form of corresponding number list (rule 16A(2))**

CORRESPONDING NUMBER LIST
(to be used at a local election taken alone)

District Electoral Area:

Date of Poll:

Sheet No:

Ballot Paper Number	Unique Identifying Mark	Elector Number <i>(to be completed only in respect of ballot papers issued to postal voters)</i>

4B. Form of corresponding number list (rule 16A(3))

CORRESPONDING NUMBER LIST
(to be used when a local election is combined with another election)

District Electoral Area/Constituency:

Date of Poll:

Sheet No.:

Ballot Paper Number <i>Identify the number issued for each election</i>	Unique Identifying Mark <i>Identify the mark for each ballot paper</i>	Elector Number <i>(to be completed only in respect of ballot papers issued to postal voters)</i>

85. In the Declaration of identity Back of form (form 5)(a), for the Instructions to the voter substitute—

(a) Form 5 in the Appendix of Forms was amended by S.I.1990/595 and paragraph 61 of Schedule 1 to the Electoral Administration Act 2006 (c.22).

“

INSTRUCTIONS TO THE VOTER

1. You must sign the declaration of identity in the presence of a person known to you. That person must then sign the declaration as a witness and write clearly his or her name and address. Without this the declaration will be invalid and your vote will not be counted.
2. You should place the figure “1” opposite the name of the candidate for whom you wish to vote and in addition you may, if you wish, place the figure “2” opposite the name of the candidate of your second choice, the figure “3” opposite the name of the candidate of your third choice and so on in the order of your preference. You may indicate by figures as many or as few preferences as you wish.
3. The figure or figures should be placed in the spaces provided at the left-hand side of the paper opposite the name of the candidate for who you intend it. Do this secretly. If you cannot vote without assistance, the person assisting you must not disclose how you have voted.
4. In no circumstances write anything else on the paper; if you do your vote may be invalid.
5. Put the ballot paper in the smaller envelope marked “A” and seal it. Then put the envelope marked “A” together with this declaration of identity in the larger envelope marked “B”. Return it without delay. The ballot paper must be received by the returning officer not later than the close of the poll.
6. If you receive more than one ballot paper, remember it is illegal to vote more than once (otherwise than as a proxy) at the same election.
7. At this election you cannot vote in person at a polling station even if you receive an official poll card.
8. If by mistake you spoil your ballot paper, you can apply to the returning officer for another one. With your application you must return, in your own envelope, the spoilt ballot paper, the declaration of identity and the envelopes marked “A” and “B”. Remember that there is little time available if a fresh ballot paper is to be issued and counted.

”

86. In the Declaration of identity (combined polls) Front of form (form 5A)(a) after the statement beginning “I hereby declare that I am the person” insert “Except where the voter is a proxy: My date of birth is [DD/MM/YEAR].”.

87.—(1) The Elector’s official poll card (form 6)(b) is amended as follows.

(2) In the Front of card omit the words from “VOTING INSTRUCTIONS Mark” to “your preference”.

(3) For the Back of card substitute—

-
- (a) Form 5A was inserted for the purposes of a combined election by paragraph 29 of the Schedule to the Elections Act 2001 (c. 7).
- (b) Form 6 (Back of Card) in the Appendix of Forms was amended by S.I. 1991/1715.

“

BACK OF CARD

Local Election

1. This card is for information only. You can vote without it, but it will save you time if you take it to the polling station and show it to the clerk there. Remember that you will not be able to vote unless you show an approved form of photographic identification.
2. When you go to the polling station, tell the clerk your name and address as shown on the front of this card and show your photographic identification. If the clerk is satisfied that you are entitled to vote you will be given a ballot paper.
3. Go to one of the compartments. Number the candidates in order of your preference, putting “1” against the candidate of your first preference, “2” against the candidate of your second preference and so on. You should not put the same preference against more than one candidate. You may show your preference for as many or as few candidates as you wish. Put no other mark on the ballot paper or your vote may not be counted.
4. Fold the ballot paper in two. Show the back of it to the presiding officer, but do not let anyone see your vote. Put the ballot paper in the ballot box and leave the polling station.
5. If by mistake you spoil your ballot paper, show it to the presiding officer and ask for another one.
6. If you have appointed a proxy to vote in person for you, you may still vote in person at this election if you do so before your proxy has voted on your behalf.
7. If you have been granted a postal vote, you will *not* be entitled to vote in person at this election, so please ignore this poll card.
8. If you need help with voting please ask the clerk who will explain the assistance which can be provided.
9. To obtain information in relation to the approved forms of photographic identification or other information relating to voting procedures please phone [**Help line number**].

ISSUED BY THE RETURNING OFFICER

”

88. For the form of Proxy’s official poll card (form 7) substitute—

“ **7. FORM OF PROXY’S OFFICIAL POLL CARD (rule 25)**

Front of card

PROXY’S OFFICIAL POLL CARD

Proxy’s name

Proxy’s address

District Council

District Electoral Area

Polling day

The poll will be open from 7 a.m. to 10 p.m.

Back of card

1. The elector named below whose proxy you are is entitled to vote at the polling station

— *[insert name of polling station]*

2. To vote as proxy you must go to that polling station. Remember that you will not be able to vote unless you show an approved form of photographic identification. Tell the clerk that you wish to vote as proxy, show your approved form of photographic identification and give the name and qualifying address of the elector, as follows:

Number on register

Name (of elector)

Address

3. If the clerk is satisfied that you are able to vote as a proxy you will be given the elector's ballot paper.
4. The method of voting is the same as for casting your own vote. Go to one of the compartments. Number the candidates in order of the elector's preference, putting "1" against the candidate of the elector's first preference, "2" against the candidate of the elector's second preference and so on. You should not put the same preference against more than one candidate. You may show the elector's preference for as many or as few candidates as the elector wishes. Put no other mark on the ballot paper, or the vote may not count.
5. Fold the ballot paper in two. Show the back of it to the presiding officer, but do not let anyone see the vote. Put the ballot paper in the ballot box and leave the polling station.
6. It is an offence to vote as proxy for some other person if you know that that person is subject to a legal incapacity to vote, e.g. if that person has been convicted and is detained in a penal institution in pursuance of a sentence. It is also an offence to vote at this election for more than two persons of whom you are not the spouse, civil partner, parent, grandparent, brother, sister, child or grandchild.
7. The person who appointed you as proxy may vote in person at this election. If they wish to do so they must vote in person before you vote on their behalf.
8. If you need help with voting please ask the clerk who will explain the assistance which can be provided.
9. To obtain information in relation to the approved forms of photographic identification or other information relating to voting procedures please phone **[Help Line Number]**.

ISSUED BY THE RETURNING OFFICER

”.

89. In paragraph 6 in the form of Directions for the guidance of voters in voting (form 8)(a) after “hidden” insert “, show the back of it to the presiding officer so as to disclose the number and other unique identifying mark”.

90. After form 8 insert—

(a) Form 8 was amended by paragraph 61 of Schedule 1 to the Electoral Administration Act 2006 (c.22).

“ **8A Form of corresponding number list** (to be used in polling stations at a local election taken alone) (*rule 26(3ZC)*)

District Electoral Area:

Date of Poll:

Polling Station:

Sheet No:

Ballot Paper Number	Elector Number

8B. Form of corresponding number list (to be used in polling stations when a local election is combined with another election) (*rule 26(3ZD)*)

District Electoral Area/
Constituency:

Date of Poll:

Polling Station:

Sheet No:

Ballot Paper Number <i>Identify the number issued for each election</i>	Elector Number

”

91. In the certificate of employment (form 9)(a) omit “Chief”.

(a) Form 9 was amended by S.I. 1987/168 and S.I. 2001/417.

Amendments to the 1985 Order

PART 1

Amendments to Article 6 (manner of voting)

- 1.**—(1) Article 6 of the 1985 Order(a) is amended as follows.
- (2) After paragraph (7) (manner of voting) insert—
- “(7A) Nothing in the preceding provisions of this Article applies to—
- (a) a person (“P”) to whom section 7 of the Representation of the People Act 1983(b) (patients in mental hospitals who are not detained offenders or on remand) applies and who is liable, by virtue of any enactment, to be detained in the mental hospital in question, or
- (b) a person (“P”) to whom section 7A of that Act (persons remanded in custody) applies,
- whether P is registered by virtue of that provision or not; and P may only vote by post or by proxy (where P is entitled as an elector to vote by post or, as the case may be, by proxy at the election).
- (7B) Paragraph (1) does not prevent a person (“P”), at the polling station allotted to P, marking a tendered ballot paper in pursuance of rule 37 of the Local Elections Rules.”.

PART 2

Amendments to Part 1 of Schedule 2 (Absent voting – voting by post, by proxy and by post as proxy)

- 2.** Part 1 of Schedule 2 to the 1985 Order(c) is amended as follows.
- 3.**—(1) Paragraph 1 (absent vote at local elections for indefinite period) is amended as follows.
- (2) In sub-paragraph (2)(b) for “physical incapacity” substitute “disability”.
- (3) In sub-paragraph (2)(c)—
- (a) for “spouse, civil partner” substitute “spouse or civil partner”; and
- (b) at the end insert “by reason of his attendance on a course provided by an educational institution or that of his spouse or civil partner, or”.
- (4) In sub-paragraph (4)(b) after “service elector” insert “or in pursuance of a declaration of local connection within the meaning of section 7B of the 1983 Act”.
- 4.** In paragraph 4 (voting as proxy) after sub-paragraph (10) insert—
- “(10A) Sub-paragraph (2) does not prevent a person (“P”), at the polling station allotted to P, marking a tendered ballot paper in pursuance of rule 37 of the Local Elections Rules.”.

(a) S.I. 1985/454; Article 6 was amended by S.I. 1987/168.

(b) 1983 c.2; section 7 was substituted by section 4 of Representation of the People Act 2000 (c.2). Section 7(3)(aa) was inserted by section 12(1) of the Electoral Administration Act 2006 (c.22).

(c) Part 1 of Schedule 2 was substituted by article 5(5) of S.I. 1987/168. Paragraph 6 of Part 1 of Schedule 2 was amended by S.I. 1992/809.

5.—(1) Paragraph 5(1) (general requirements for applications) is amended as follows.

(2) After “paragraph 1, 2, 3 or 4” insert “shall be made in writing and”.

(3) After “shall be signed” insert “and dated”.

6. After paragraph 5 insert—

“Additional requirement for applications for ballot papers to be sent to different address from that in register

5B.—(1) Sub-paragraph (2) applies where—

- (a) in the case of an application to vote by post under paragraph 1(1), the addresses provided in accordance with paragraph 1(6) and paragraph 5(1)(b) are different;
- (b) in the case of an application to vote by post under paragraph 2(1), the addresses provided in accordance with paragraph 2(5) and paragraph 5(1)(b) are different;
- (c) in the case of an application by a proxy to vote by post under paragraph 4(4) or 4(6), the address provided in accordance with paragraph 4(11) and the address of the applicant provided in accordance with paragraph 5(1)(c) are different.

(2) The application must set out why the applicant’s (“A”) circumstances will be or are likely to be such that A requires the ballot paper to be sent to the address provided in accordance with, as the case may be, paragraph 1(6), 2(5) or 4(11).

Additional requirements for applications for ballot papers to be sent to different address from that shown in the record kept under paragraph 1(3) or 4(5).

5C. An application under—

- (a) paragraph 2(2)(a) by a person (“A”) shown as voting by post in the record kept under paragraph 1(3); or
- (b) paragraph 4(7) by a person (“A”) shown as voting by post in the record kept under paragraph 4(5),

for A’s ballot paper to be sent to a different address from that shown in the record must set out why A’s circumstances will be or are likely to be such that A requires the ballot paper to be sent to that address.”.

7.—(1) Paragraph 6 (additional requirements for applications on grounds of disability) is amended as follows.

(2) In the heading for “physical incapacity” substitute “blindness or other disability”.

(3) In sub-paragraphs (1), (2) and (3)(a), (b) and (c) for “physical incapacity” or “incapacity”, wherever they appear, substitute “disability”.

(4) In sub-paragraph (2) after “signed by” insert “a person who is registered in the register and who is”.

(5) For sub-paragraph (2)(b) substitute—

“(b) a nurse registered on the register maintained by the Nursing and Midwifery Council under article 5 of the Nursing and Midwifery Order 2001(a) by virtue of qualifications in nursing;

(ba) a social worker registered under the principal part of the register maintained by the Northern Ireland Social Care Council under section 3 of the Health and Personal Services Act (Northern Ireland) 2001(b);”.

(6) For sub-paragraph (2)(f) substitute—

(a) S.I. 2002/253.

(b) 2001 c. 3 (NI); section 3 has been amended by S.I. 2007/3101.

“(f) the manager or other person in charge of premises forming one of a group of premises provided for persons of pensionable age or persons with a disability for which there is a resident manager or other person in charge, where the applicant states that he resides in such premises.”.

(7) After sub-paragraph (3)(a) insert—

“(aa) that he is registered in the register;”.

(8) In sub-paragraph (4)(a) for “Health and Social Services Board” substitute “Health and Social Care Trust”.

(9) For sub-paragraph (4)(b) substitute—

“(b) the application states that the applicant is in receipt of—

(i) the higher rate of attendance allowance (payable under section 65 of the Social Security Contributions and Benefits (Northern Ireland) Act 1992)(a);
or

(ii) the highest rate of the care component or the higher rate of the mobility component (or both) of the disability living allowance (payable under sections 72 and 73 of that Act),

because of the disability specified in the application.”.

(10) In sub-paragraph (5) for “Health and Social Services Board” substitute “Health and Social Care Trust”.

8.—(1) Paragraph 7 (additional requirements for applications based on occupation, service etc.) is amended as follows.

(2) For “An application under paragraph 1(2)(c)” substitute “In the case of an application made under paragraph 1(2)(c) by reason of a person’s occupation, service or employment, the application”.

(3) In sub-paragraph (1)(c) after “self-employed” insert “or otherwise does not have an employer”.

(4) In sub-paragraph (2)(a) after “self-employed” insert “or otherwise does not have an employer”.

(5) In the full-out words at the end of sub-paragraph (2) omit “paragraph (i) of”.

(6) For sub-paragraph (3) substitute—

“(3) The person attesting an application under sub-paragraph (2) shall—

(a) where the applicant is the employed person, certify that the statements included in the application in accordance with the requirements of paragraphs (a) to (d) of sub-paragraph (1) are true;

(b) where the applicant is the spouse or civil partner of the employed person, certify that the statements included in the application in accordance with the requirements of paragraphs (a) to (c) of sub-paragraph (1) are true;

(c) in all cases, state his name and address, that he is aged 18 years or over, resides in the United Kingdom and knows the employed person, but is not related to such person; and

(d) in the case of a person who attests an application under paragraph (b) of that sub-paragraph, state either that he is the employer of that person or the position he holds in the employment of that employer.”.

9. After paragraph 7 insert—

(a) 1992 c. 7 (NI).

“Additional requirements for applications based on attendance on a course

7A.—(1) In the case of an application made under paragraph 1(2)(c) by reason of a person’s attendance on a course, the application shall state—

- (a) whether the person attending the course is the applicant or his spouse or civil partner;
- (b) the nature of the course;
- (c) why the applicant cannot reasonably be expected to go in person to his allotted polling station (within the meaning of paragraph 6(6)) by reason of the general nature of the course.

(2) The application shall be attested and signed by a person who—

- (a) is aged 18 years or over;
- (b) resides in the United Kingdom;
- (c) knows the person attending the course;
- (d) is not related to the person attending the course; and
- (e) is the director or tutor of that course or the principal or head of that institution or an employee to whom this function is delegated by the head or principal.

(3) The person attesting the application shall—

- (a) state his name and address;
- (b) state that he is aged 18 years or over, that he resides in the United Kingdom, that he knows the person attending the course and that he is not related to the person attending the course;
- (c) state the post he holds in the educational institution;
- (d) certify that the applicant’s statements under sub-paragraph (1)(a) and (b) are true;
- (e) in a case where the applicant is the person attending the course, certify that the applicant’s statement under sub-paragraph (1)(c) is true.

(4) For the purposes of this paragraph one person is related to another if the person is the spouse, civil partner, parent, grandparent, brother, sister, child or grandchild of the other.”.

10.—(1) Paragraph 8 (additional requirements for applications in respect of a particular election) is amended as follows.

(2) In sub-paragraph (2)(d)—

- (a) for “any” substitute “more than one”; and
- (b) at the end insert “or another election in Northern Ireland the poll for which is taking place on the same day”.

(3) In sub-paragraph (3)(e)—

- (a) for “any” substitute “more than one”; and
- (b) at the end insert “or another election in Northern Ireland the poll for which is taking place on the same day”.

(4) In sub-paragraph (4)(a) omit “physically”.

(5) In sub-paragraph (4)(c) after “by” insert “a person who is registered in the register and who is”.

(6) For sub-paragraph (5)(a) substitute—

- “(a) his name and address, that he is treating the applicant in connection with the illness specified in sub-paragraph (4) or that the applicant is receiving care from him in respect of that illness, and the qualification by virtue of which he is authorised to attest it;”.

(7) At the end of sub-paragraph (5)(a) omit “and”.

(8) After sub-paragraph (5)(a) insert—

“(aa) that he is registered in the register; and”.

(9) In sub-paragraph (5)(b) omit “physical”.

(10) In sub-paragraph (6)(d) after “by” insert “a person who is registered in the register and who is”.

(11) For sub-paragraph (7)(a) substitute—

“(a) his name and address, that he is treating the applicant in connection with the circumstances set out in sub-paragraph (1) or that the applicant is receiving care from him in respect of those circumstances, and the qualification by virtue of which he is authorised to attest it;”.

(12) After sub-paragraph (7)(a) insert—

“(aa) that he is registered in the register;

(ab) that to the best of his knowledge and belief—

(i) the applicant is suffering from the illness or other health-related matter specified in the application;

(ii) that he will be or is likely to be so suffering on the date of the poll; and

(iii) that in those circumstances he cannot reasonably be expected to vote in person at his allotted polling station; and”.

(13) In paragraph 8(8)(d) omit “chief”.

11. In paragraph 11(6) (closing dates for applications) omit “, Maundy Thursday”.

12.—(1) Paragraph 12 (grant or refusal of applications) is amended as follows.

(2) After sub-paragraph (1) insert—

“(1A) Where the Chief Electoral Officer grants an application for the appointment of a proxy, he shall confirm in writing to the elector that the proxy has been appointed, his name and address, and the duration of the appointment.

(1B) The proxy paper to be issued by the Chief Electoral Officer on the appointment of a proxy shall be in the form in the Appendix or a form to the like effect.”.

(3) In sub-paragraph (2) after “decision” insert “and, in the case of an application under paragraphs 1(1) or 4(4), of the reasons for it,”.

13.—(1) Paragraph 15 (records and lists kept under paragraphs 1, 2 and 4) is amended as follows.

(2) Omit sub-paragraphs (1) to (4) and (8).

(3) For sub-paragraph (6) substitute—

“(6) As soon as practicable after the sixth day before the day of the poll (calculated in accordance with paragraph 11(6)) the Chief Electoral Officer shall publish the lists kept under paragraphs 2(4) and 4(8) by making a copy of them available for inspection at his office during ordinary office hours.”.

(4) For sub-paragraph (7) substitute—

“(7) The Chief Electoral Officer shall, on request, supply free of charge a copy of the lists referred to in sub-paragraph (6) to each candidate or his election agent.”.

14.—(1) The Appendix is amended as follows.

(2) After “Appendix” insert—

“Arrangement of Forms

1. Form of Proxy Paper

2. Statements as to Postal Ballot Papers”.

(3) The Form of proxy paper (“Form 1”) is numbered “1”.

- (4) At the end of the heading “Form of Proxy Paper” insert “(Schedule 2, Part 1, Paragraph 3)”.
- (5) For the words from “Your Right to Vote as Proxy” to the end of Form 1 substitute—

“YOUR RIGHT TO VOTE AS PROXY

1. This proxy paper gives you the right to vote as proxy on behalf of the elector whose name is given overleaf. However, you may not vote as proxy at the same election for more than two electors of whom you are not the spouse, civil partner, parent, grandparent, brother, sister, child or grandchild.

2. Your appointment as proxy may be for a particular election only, or it may be for an indefinite period.

If it is for a particular election, you have the right to vote as proxy only at the election specified in the proxy paper.

If it is for an indefinite period, you have in general the right to vote as proxy at any local election for which the elector is qualified to vote until the Chief Electoral Officer informs you to the contrary.

3. You may vote as proxy at the polling station allotted to the elector on whose behalf you are appointed. Shortly before polling day you will be sent a proxy poll card telling you where the polling station is. You do not need to take either the poll card or this proxy paper to the polling station but you may find it helpful to do so.

4. If you cannot vote in person at the polling station, you should contact the Help Line [**Help Line Number**] about your right to vote by post.”

- (6) After Form 1 insert—

“2. Statement as to Postal Ballot Papers (<i>Schedule 2, Part 3, Paragraph 19(1)(b)</i>)		
ELECTION OF DISTRICT COUNCILLORS		
District electoral area		
Date of poll		
A	<u>Issue of postal ballot papers</u>	<u>Number</u>
1	Total number of postal ballot papers issued under paragraph 6 of Part 3 of Schedule 2	
2	Total number of postal ballot papers issued under paragraph 12(2) of Part 3 of Schedule 2 (where the first ballot paper was spoilt and returned for cancellation)	
3	Total number of postal ballots issued (1+2)	
B	<u>Receipt of postal ballot papers</u>	<u>Number</u>
4	Number of covering envelopes received by the returning officer or at a polling station before the close of poll (excluding any undelivered or returned under paragraph 12(1) of Part 3 of Schedule 2 with spoilt ballot papers)	
5	Number of covering envelopes received by the returning officer after the close of poll, excluding any returned as undelivered	
6	Number of postal ballot papers returned spoilt for cancellation under paragraph 12(1) of Part 3 of Schedule 2 in time for another ballot paper to be issued	
7	Number of postal ballot papers returned as spoilt too late for another ballot paper to be issued	
8	Number of covering envelopes returned as undelivered (up to the date of this statement)	
9	Number of covering envelopes not received by the returning officer by the date of this statement	
10	Total Nos. 4 to 9 (This number should be the same as that in 3 above)	
C	<u>Count of postal ballot papers</u>	<u>Number</u>
11	Number of covering envelopes received by the returning officer or at a polling station before the close of poll (excluding any undelivered or returned under paragraph 12(1) of Part 3 of Schedule 2 with spoilt ballot papers)	
12	Number of ballot papers returned by postal voters which were included in the count of ballot papers	
13	Number of cases in which a covering envelope or its contents were marked “Rejected” (cancellations under paragraph 12(3) of Part 3 of Schedule 2 are not rejections and should be included in items 2 and 6 above)	

Date

Signed

Returning Officer

Address

”.

PART 3

Amendments to Part 3 of Schedule 2 (Absent voting – issue and receipt of ballot papers)

- 15.** Part 3 of Schedule 2 to the 1985 Order is amended as follows.
- 16.** Omit the definition of “election rules” in paragraph 1 (interpretation).
- 17.** In paragraph 2 (form of ballot paper) for “elections rules” substitute “Local Elections Rules”.
- 18.—**(1) Paragraph 3 (persons entitled to be present at issue and receipt of postal ballot papers) is amended as follows.
- (2) In sub-paragraph (1) after paragraph (d) insert—
- “(e) persons who are entitled to be present at the proceedings on the issue or receipt of postal ballot papers by virtue of sections 6A, 6B, 6C or 6D of the Political Parties, Elections and Referendums Act 2000,(a)”.
- (3) For sub-paragraph (2) substitute—
- “(2) Each candidate may appoint one or more agents to attend the proceedings on the issue or receipt of the postal ballot papers up to the number he may be authorised by the returning officer to appoint so however that the number authorised must be the same in the case of each candidate.”.
- (4) In sub-paragraph (3) after “notice” insert “in writing”.
- 19.—**(1) Paragraph 6 (marking of postal ballot paper) is amended as follows.
- (2) For the heading substitute “Procedure on issue of postal ballot paper”.
- (3) In sub-paragraph (1) for the words preceding “and a mark” substitute “The number of the elector as stated in the register shall be marked on the corresponding number list, next to the number and unique identifying mark of the ballot paper issued to the elector”.
- (4) After sub-paragraph (3) insert—
- “(4) The address to which the postal ballot paper, declaration of identity and the envelopes referred to in paragraph 8 are to be sent is—
- (a) in the case of an elector, the address shown in the absent voters list; and
- (b) in the case of a proxy, the address shown in the special list kept under paragraph 4(8) of Part 1 of this Schedule.”.
- 20.—**(1) Paragraph 8 (ballot paper envelope) is amended as follows.
- (2) In sub-paragraph (1)—
- (a) For “elections rules” substitute “Local Elections Rules”;
- (b) for “marked” substitute “referred to as a”;
- (c) omit “bearing the number of the ballot paper”.
- (3) After sub-paragraph (1) insert—
- “(1A) The covering envelope shall be marked with the letter “B”.
- (1B) The ballot paper envelope shall be marked with—
- (a) the letter “A”;
- (b) the words “ballot paper envelope”; and

(a) 2000 c. 41; section 6(3)(a) and (b) were amended by S.I. 2007/1388; sections 6A-F were inserted by section 29 of the Electoral Administration Act 2006 (c.22); section 6A(5)(d) was amended by S.I. 2007/1388.

- (c) the number of the ballot paper, unless the envelope has a window through which the number on the ballot paper (or ballot papers) can be displayed.”.

(4) After sub-paragraph (2) insert—

“(2A) In paragraphs 17A and 17B, a reference to the number on a ballot paper envelope includes, in the case of an envelope of the kind referred to in paragraph (1B)(c), a reference to the number that is displayed through the window in that envelope.”.

21. For paragraph 9 substitute—

“Delivery of postal ballot papers

9.—(1) For the purpose of delivering postal ballot papers the returning officer may use—

- (a) a universal postal service provider;
- (b) a commercial delivery firm; or
- (c) clerks appointed under rule 23(1) of the Local Elections Rules.

(2) Where the services of a universal postal service provider or commercial delivery firm are to be used envelopes addressed to postal voters must be counted and delivered by the returning officer with such form of receipt to be endorsed by that provider or firm as may be arranged.

(3) Postage must be prepaid on the covering envelopes and, where the method of delivery specified in sub-paragraph (1)(a) or (b) is used, on envelopes addressed to the postal voters.”.

22. Paragraph 10 (provision of postal voters ballot box) is omitted.

23. For paragraph 11 substitute—

“Sealing up of completed corresponding number lists and security of special lists

11.—(1) As soon as practicable after the issue of each batch of postal ballot papers, the returning officer shall make up into a packet the completed corresponding number lists of those ballot papers which have been issued and shall seal such a packet.

(2) As soon as practicable after the last batch of postal ballot papers has been issued the returning officer shall make up into a packet the marked copy of the absent voters list and the list of postal proxies and shall seal that packet.

(3) Until the time referred to in paragraph (2) the returning officer shall take precautions for the security of the lists referred to in that paragraph.”.

24.—(1) Paragraph 12 (spoilt postal ballot paper) is amended as follows.

(2) In sub-paragraph (1)—

- (a) after “the spoilt postal ballot paper” on the second occasion on which it appears insert “and”; and
- (b) omit the words “the ballot paper envelope and the covering envelope”.

(3) In sub-paragraph (2) for “unless the documents are received too late for another postal ballot paper to be returned before the close of the poll” substitute “except where those documents are received after 5 p.m. on the day before the day of the poll”.

(4) In sub-paragraph (3)—

- (a) after “the spoilt postal ballot paper” insert “and”; and
- (b) omit the words “and the ballot paper envelope”.

(5) After sub-paragraph (4) insert—

“(5) Where a postal voter applies in person, the returning officer may hand a replacement postal ballot paper to him instead of delivering it in accordance with paragraph 9.

(6) The returning officer shall enter in a list kept for the purpose (“the list of spoilt ballot papers”)—

- (a) the name and address of the elector as stated in the register;
- (b) the number of any postal ballot paper issued under this paragraph; and
- (c) where the postal voter whose ballot paper is spoilt is a proxy, his name and address.”.

25. In paragraph 14(4) (postal ballot boxes and receptacles)(a) after “the ballot box” insert “, if it has a lock,”.

26. In paragraph 16(3) (opening of postal voters’ ballot box) for “elections rules” substitute “Local Elections Rules”.

27. In paragraph 17 (opening of covering envelopes) after sub-paragraph (4) insert—

“(5) Where an envelope opened in accordance with sub-paragraph (1) contains a declaration of identity, the returning officer must, having first unsealed the relevant packet, place a mark in the marked copy of the absent voters list or the proxy postal voters list in a place corresponding to the number of the elector to denote that a postal vote has been returned.

(6) A mark made under sub-paragraph (5) must be distinguishable from and must not obscure the mark made under paragraph 6(1).

(7) As soon as practicable after the last covering envelope has been opened, the returning officer must make up into a packet the copy of the absent voters list and the copy of the proxy postal voters list that have been marked in accordance with sub-paragraph (5) and must seal that packet.”.

28.—(1) Paragraph 17A (procedure in relation to declarations of identity) is amended as follows.

(2) In sub-paragraph (1)(b) for “elections rules” substitute “Local Elections Rules”.

(3) In sub-paragraph (6)(b) after “on it” insert “and the number is not displayed through a window in it”.

29. In paragraph 17C (sealing of receptacles) for “possible” substitute “practicable”.

30.—(1) Paragraph 19 (disposal of documents)(b) is amended as follows.

(2) In sub-paragraph (1) for “any packets referred to in paragraphs 11, 12 and 17C” substitute—

“, at the same time as he forwards the documents mentioned in rule 58 of the Local Elections Rules—

- (a) any packets referred to in paragraphs 11, 12 and 17C, endorsing on each packet a description of its contents, the date of the election to which it relates and the name of the local government electoral area for which the election was held; and
- (b) a completed statement in Form 2 in the Appendix to Part 1, or in a form which has substantially the same effect.”.

(3) In sub-paragraph (3) for “elections rules” substitute “Local Elections Rules”.

(a) Paragraphs 13 to 17C were substituted by S.I. 2002/2835.

(b) Paragraph 19 was amended by S.I. 2002/2835.

ACCESS TO MARKED REGISTERS AND OTHER DOCUMENTS OPEN TO PUBLIC INSPECTION AFTER AN ELECTION

Interpretation and general

1.—(1) In this Schedule—

“1985 Order” means the Local Elections (Northern Ireland) Order 1985(a);

“2008 Regulations” means the Representation of the People (Northern Ireland) Regulations 2008(b);

“Chief Electoral Officer” means the Chief Electoral Officer for Northern Ireland;

“edited register” has the same meaning as in regulation 93 of the 2008 Regulations;

“enactment” has the same meaning as in section 17(2) of the Representation of the People Act 2000(c);

“the full register” means the register published under section 13(1) or (3) of the Representation of the People Act 1983(d);

“Local Elections Rules” means the Rules contained in Schedule 5 to the Electoral Law Act (Northern Ireland) 1962;

“the marked register or lists” means any of the marked copies of the full register, marked copy notices under section 13BA(9) of the Representation of the People Act 1983, list of proxies, absent voters list and proxy postal voters list retained by the proper officer, under rule 60 of the Local Elections Rules or paragraph 19 of Part 3 of Schedule 2 to the 1985 Order;

“processor” means any person who provides a service which consists of putting information in data form or processing information in data form and any reference to a processor includes a reference to that processor’s employees;

“proper officer” means the person referred to as the proper officer of the council in rules 59 and 60 of the Local Elections Rules; and

“research purposes” is to be construed in accordance with section 33(1) of the Data Protection Act 1998(e).

(2) In this Part, any reference to an employee of any person who has access to a copy of the full register is deemed to include a person working or providing services for the purposes of that person or employed by or on behalf of, or working for, any person who is so working or who is supplying such a service.

(3) The processor may not disclose the full register or the information contained in it except to the person who supplied it to the processor or an employee of that person or a person who is entitled to obtain a copy of the full register under the 2008 Regulations or any employee of such a person.

(4) In computing a period of days for the purposes of this Schedule, Saturday, Sunday, Christmas Eve, Christmas Day, Good Friday or a bank holiday is to be disregarded.

(a) S.I. 1985/454; Schedule 2 to the 1985 Order is amended by Schedule 2 to this Order.

(b) S.I. 2008/1741; these Regulations were amended by S.I. 2010/278.

(c) S.I. 2000 c.2 (“the 2000 Act”)

(d) 1983 c.2; section 13 was substituted by section 8 of, and Schedule 1 to, the 2000 Act; subsection (1) was subsequently substituted by section 5 of the Northern Ireland (Miscellaneous Provisions) Act 2006 (c.33); and section 13BA was inserted by section 6 of that Act.

(e) 1998 c. 29.

(5) In paragraph (4) “bank holiday” means a day which is a bank holiday under the Banking and Financial Dealings Act 1971(a) in Northern Ireland.

(6) Any duty on the proper officer to supply records or lists or make them available for inspection under this Schedule imposes only a duty to provide that information in the form in which the proper officer holds it.

Supply of the marked register or lists after a local election

2.—(1) Any person entitled to be supplied in accordance with regulation 99, 102, 103, 104, 105, 106, 107 or 111 of the 2008 Regulations with copies of the full register at a local election is also a person entitled, subject to this paragraph and paragraph 5, to request that the proper officer supplies copies of the relevant part of the marked register or lists a proper officer is required to keep.

(2) A person whose entitlement to request copies of the marked register or lists under paragraph (1) arises from being in a category of persons to whom regulation 102, 103, 104, 105, or 106 applies before a particular local election, is entitled to request those documents regardless of whether, after that election, he or she remains in a category of persons who are entitled under those provisions.

(3) A request under sub-paragraph (1) must be made in writing and must—

- (a) specify which of the marked register or lists (or the relevant part of the register or lists) are requested;
- (b) state whether a printed copy is requested or a copy in data form; and
- (c) state the purpose for which the marked register or lists will be used and why the supply or purchase of a copy of the full register or unmarked lists would not be sufficient to achieve that purpose.

(4) The proper officer must forward the request to the Chief Electoral Officer so the Chief Electoral Officer can make the determination required by sub-paragraph (5)(a).

(5) The proper officer must supply a copy of the relevant part of the marked register or lists where a request is duly made, and—

- (a) the Chief Electoral Officer is satisfied that the requestor needs to see the marks on the marked register or lists in order to achieve the purpose for which they are requested; and
- (b) the proper officer has received payment of a fee calculated in accordance with paragraph 6.

(6) If the Chief Electoral Officer is not satisfied in accordance with sub-paragraph (5)(a) the Chief Electoral Officer may treat the request for a copy of the marked register or lists as a request for information in unmarked lists under paragraph 15 of Part 1 of Schedule 2 to the 1985 Order or for the published copy of the full register in accordance with regulation 110 of the 2008 Regulations, or both and the proper officer must inform the requestor of the Chief Electoral Officer’s determination in this regard.

(7) A person who obtains a copy of any part of the marked register or lists under this paragraph may only use it for the permitted purpose specified in paragraph 5(3), and any restrictions on the supply, disclosure and use of information—

- (a) referred to in paragraph 5(2), or
- (b) which would apply to the use of the full register under whichever of regulations 99, 102, 103, 104, 105, 106, 107 or 111 of the 2008 Regulations entitled that person to obtain that document,

apply to such use.

(a) 1971 c.80.

(8) Any person who has obtained or is entitled to obtain a copy of the marked register or lists under this paragraph may—

- (a) supply a copy of the marked register or lists to a processor for the purpose of processing the information contained therein, or
- (b) procure that a processor processes and supplies to them any copy of the information in the marked register or lists which the processor has obtained under this paragraph,

for use in respect of the purposes for which that person is entitled to obtain such copy or information (as the case may be).

(9) For the purposes of this paragraph the relevant part of the marked register or lists is—

- (a) where the person is entitled under the 2008 Regulations to the whole of the full register, the whole of the marked register or lists;
- (b) where the person is entitled under the 2008 Regulations to so much of the full register as relates to a particular area, so much of the marked register or lists as relates to that area.

Public inspection of the marked register or lists

3.—(1) Any person is entitled to request that the proper officer make available for inspection a copy of the marked register or lists.

(2) A request under sub-paragraph (1) must be made in writing and must specify—

- (a) which of the marked register or lists are requested,
- (b) the purpose for which the information will be used,
- (c) any reason why inspecting the full register or unmarked notices or lists would not be sufficient to achieve that purpose,
- (d) who will inspect the register or lists,
- (e) the date on which they wish to inspect the register or lists, and
- (f) whether they would prefer to inspect the register or lists in printed or data form.

(3) The proper officer must forward the request to the Chief Electoral Officer so the Chief Electoral Officer can make the determination required by sub-paragraph (4).

(4) Where the Chief Electoral Officer is satisfied that the purposes of the requestor cannot be met by inspection of the full register or unmarked notices or lists the proper officer must make the marked register or lists available for inspection in accordance with the following provisions of this paragraph.

(5) Where the Chief Electoral Officer is not so satisfied, the proper officer must inform the requestor—

- (a) of this decision, and
- (b) provide the requestor with information concerning the availability of the published full register for inspection in accordance with regulation 52 of the 2008 Regulations or the unmarked lists in accordance with paragraph 15 of Schedule 2 to the 1985 Order(a).

(6) Subject to sub-paragraph (7) the inspection referred to in sub-paragraph (4) must take place under supervision during ordinary office hours and not later than 15 days after the date of receipt of a request that has been duly made under sub-paragraph (2).

(7) If the date on which the requestor wishes to inspect the marked register or lists is a day more than 15 days after the date of the receipt of the request, the proper officer must make the marked register or lists open to inspection on that date or, if that is a day disregarded by virtue of paragraph 1(4), the next day that is not so disregarded.

(a) Paragraph 15 is amended by paragraph 13 of Schedule 2 to this Order.

(8) A person who obtains information under this paragraph may use it only for the permitted purposes specified in paragraph 5, and any restrictions on the supply, disclosure and use of information referred to in that paragraph or sub-paragraph (8) below apply to such use.

(9) Where inspection takes place by providing the records on a computer screen or otherwise in data form, the proper officer must ensure the manner in which, and the equipment on which, that copy is provided do not permit any person consulting that copy to—

- (a) search it by electronic means by reference to the name of any person; or
- (b) copy or transmit any part of that copy by electronic or any other means.

(10) A person who inspects a copy of a register, notice or list may make hand-written notes but may not otherwise make copies of any part of them.

Public inspection of other documents

4.—(1) Any person is entitled to request that the proper officer make available for inspection a copy of any of the documents (referred to in this paragraph and paragraph 5 as the “documents open to public inspection”) which the proper officer is required to retain under rule 60 of the Local Elections Rules except—

- (a) ballot papers,
- (b) completed corresponding number lists, and
- (c) certificates of employment on the day of the election.

(2) A request under sub-paragraph (1) must be made in writing and must specify—

- (a) which documents are requested,
- (b) the purpose for which the information in any document will be used,
- (c) who will inspect the documents,
- (d) the date on which they wish to inspect the documents, and
- (e) whether they would prefer to inspect the documents in printed or data form.

(3) Subject to sub-paragraph (4) the proper officer must make the documents open to public inspection available for inspection under supervision not later than 15 days after the date of receipt of a request that has been duly made under sub-paragraph (2).

(4) If the date on which the requestor wishes to inspect the documents is a day more than 15 days after the date of the receipt of the request, the proper officer must make the documents open to inspection on that date or, if that is a day disregarded by virtue of paragraph 1(4), the next day that is not so disregarded.

(5) A person who obtains a copy of or information in any document open to public inspection under this rule may use it only for the permitted purposes specified in paragraph 5, and any restrictions on the supply, disclosure and use of information—

- (a) referred to in paragraph (5)(2),
- (b) referred to in sub-paragraph (7) below, or
- (c) which would apply to the use of the full register under regulation 107 of the 2008 Regulations where such a person has obtained a copy of that document under sub-paragraph (8) below,

apply to such use.

(6) Where inspection takes place by providing the records on a computer screen or otherwise in data form, the proper officer must ensure the manner in which, and the equipment on which, that copy is provided do not permit any person consulting that copy to—

- (a) search it by electronic means by reference to the name of any person; or
- (b) copy or transmit any part of that copy by electronic or any other means.

(7) Subject to sub-paragraph (8), a person who inspects a copy of a document open to public inspection, whether in printed copy or in data form, may not—

- (a) make copies of any part of it, or
- (b) record any particulars in it.

(8) The proper officer must, on request, supply free of charge copies of any documents open to public inspection to a person who has inspected those documents and who is entitled to be supplied with a copy of the marked register or lists by virtue of being a person to whom regulation 107 of the 2008 Regulations applies.

Restrictions on the use, supply and disclosure of documents open to public inspection

5.—(1) In this paragraph “the documents open to public inspection” also includes the marked register or lists open to inspection under paragraph 3.

(2) Subject to sub-paragraphs (3) and (4), the restrictions on the supply, disclosure and use of information in regulations 94 and 95 of the 2008 Regulations—

- (a) apply to the documents open to public inspection as they apply to the full register; and
- (b) as if the reference in regulation 94 to the Chief Electoral Officer (save for that in paragraph (2)) includes a reference to the proper officer.

(3) Where a person—

- (a) obtains copies of information in the marked register or lists in accordance with paragraph 2(1), or
- (b) inspects information in accordance with paragraph 3(1) or paragraph 4(1),

the permitted purpose means either research purposes or electoral purposes.

(4) Where a copy of any information was supplied in the circumstances to which paragraph 4(8) applies, the permitted purpose means the purposes set out in regulation 107(3) of the 2008 Regulations.

Fees relating to the marked register or lists

6.—(1) The fee to be paid in accordance with paragraph 2(5) by a person making a request for a copy of the whole or of any part of the marked register or lists is set out in sub-paragraph (2).

(2) The fee is—

- (a) where the copy is in printed form, the sum of £10 plus £5 for each 1000 entries (or remaining part of 1000 entries) in the register or lists; and
- (b) where the copy is in data form, the sum of £20 plus £1.50 for each 1000 entries (or remaining part of 1000 entries) in the register or lists.

(3) For the purposes of this paragraph, a request for a copy of the whole or the same part of the marked register or lists in both a printed and data form may be treated as two separate requests.

Access to the marked register or lists and other election documents: failure to comply with restrictions

7.—(1) A person is guilty of an offence—

- (a) if he or she fails to comply with any of the restrictions imposed under paragraph 5; or
- (b) is an appropriate supervisor of a person (P) who fails to comply with any such restriction and he or she failed to take appropriate steps.

(2) P is not guilty of an offence under sub-paragraph (1) if—

- (a) P has an appropriate supervisor, and
- (b) P has complied with all the requirements imposed on him or her by his or her appropriate supervisor.

(3) A person who is not P or an appropriate supervisor is not guilty of an offence under sub-paragraph (1) if that person takes all reasonable steps to ensure that he or she complies with the restrictions.

(4) In sub-paragraphs (1)(b) and (2)—

- (a) an appropriate supervisor is a person who is a director of a company or concerned in the management of an organisation in which P is employed or under whose direction or control P is;
- (b) appropriate steps are such steps as it was reasonable for the appropriate supervisor to take to secure the operation of procedures designed to prevent, so far as reasonably practicable, the occurrence of failure to comply with the restrictions.

(5) A person guilty of an offence as mentioned in sub-paragraph (1) is liable on summary conviction to a fine not exceeding level 5 on the standard scale.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order makes provision for local elections in Northern Ireland. In particular it sets the date on which the local elections in 2011 will take place, it amends the Electoral Law Act (Northern Ireland) 1962 (“the 1962 Act”) and it amends the Local Elections (Northern Ireland) Order 1985 (“1985 Order”).

Article 3 makes provision for the local elections in 2011 to take place on 5th May.

Article 4 and Schedule 1 to the Order amend the 1962 Act. The amendments are made to bring local elections legislation up to date with that applying to Parliamentary, Assembly and European Parliamentary elections in Northern Ireland. In particular the amendments reflect changes made to the law governing campaign expenditure and election expenses by the Political Parties, Elections and Referendums Act 2000 (which changes did not apply to local elections in Northern Ireland) and changes made to electoral law more generally by the Electoral Administration Act 2006.

Part 1 of Schedule 1 to the Order amends Parts 4 (officers) and 6 (the election campaign) of the 1962 Act. In particular it makes provision for the Chief Electoral Officer for Northern Ireland, who is the returning officer at local elections, to give directions to the deputy returning officers (clerks of the district councils) as to how functions under the local elections rules (“the Rules”) should be carried out. It also amends the provisions relating to donations to candidates and election expenses at a local election. Paragraph 5 makes provision for the control of donations to candidates at local elections and inserts a new section 37A of the 1962 Act (control of donations to candidates at a local election) which in turn refers to new Schedule 3A (inserted by paragraph 19). Paragraphs 7-17 amend the provisions about election expenses at local elections including when and by whom they may be incurred and the reporting requirements. Paragraphs 16 and 19 insert new sections 52A and 52B of, and Schedule 3B to, the 1962 Act (local elections: election expenses). These provisions are now in the same form as those that apply for Parliamentary, Assembly and European Parliamentary elections in Northern Ireland.

Paragraph 18 of Schedule 1 to the Order inserts new section 57A of the 1962 Act. This enables the returning officer at a local election to remedy an act or omission made by him or herself or the various electoral administrators specified. Two electoral offences contained in Schedule 9 to the 1962 Act (electoral misdemeanours) are also amended to reflect this provision. Paragraph 37 of Schedule 1 amends paragraph 25 of Schedule 9 and paragraph 39 of Schedule 1 amends paragraph 32A of Schedule 9.

Part 2 of Schedule 1 to the Order amends Parts 9 and 10 of, and Schedule 9 to, the 1962 Act. In particular, paragraph 30 of Schedule 1 inserts new paragraph 4A of Schedule 9 which makes provision for offences relating to applications for postal and proxy votes at local elections.

Part 3 of Schedule 1 to the Order amends Part 11 of the 1962 Act. In particular paragraph 41 inserts a new section 122A which requires the translation and provision in alternative formats of various electoral documents. Paragraph 43 amends the definition of candidate for the purposes of Parts 6, 9 and 10 of, and Schedules 8 and 9 to, the 1962 Act. This now reflects the provision that is made in respect of Parliamentary, Assembly and European Parliamentary elections in Northern Ireland.

Part 4 of Schedule 1 to the Order amends the Rules. Paragraphs 45 and 46 amend the electoral timetables contained in rule 1 and which apply to local general elections and by-elections. Corresponding number lists have been introduced at elections to replace counterfoils. Paragraphs 55 and 60, which insert a new rule 16A (corresponding number lists) and amend rule 26 (equipment of polling stations), make this provision. Elsewhere amendments are made to the Rules to reflect this change to electoral administration. Paragraph 78 amends the provision that applies when a candidate at a local election dies, replacing rule 61 with new rules 61-64. Separate provision is now made for independent candidates and candidates standing in the name or names of a registered party or parties. If an independent candidate dies the poll is no longer abandoned or countermanded. A fresh election will be required, however, if the votes the independent

candidate receives are equal to or exceed the quota. If a candidate standing in the name of a registered party, or two or more registered parties, dies then the poll will be countermanded or abandoned and a fresh election will take place.

Article 5 of, and Schedule 2 to, the Order amend the 1985 Order. The amendments are made to bring provisions about absent voting at local elections in line with those applying to Parliamentary, Assembly and European Parliamentary elections in Northern Ireland.

Part 1 of Schedule 2 to the Order amends article 6 of the 1985 Order. It provides that a patient in a mental hospital who is not a detained offender or on remand, but who is liable by virtue of an enactment to be detained in the hospital, and a person who is remanded in custody, are not entitled to vote in person and may only vote by post or by proxy.

Part 2 of Schedule 2 makes amendments to Part 1 of Schedule 2 to the 1985 Order. That Part deals with entitlements to and applications for an absent vote. In particular paragraph 3(3)(b) of Schedule 2 provides for an additional ground for applying for an absent vote, on the basis of the attendance of the applicant or his or her spouse or civil partner on a course provided by an educational institution. Paragraph 9 inserts a new paragraph 7A in Part 1 of Schedule 2 to the 1985 Order, which sets out additional requirements for applications based on attendance on such a course. A new form “Statement as to Postal Ballot Papers” is inserted in the Appendix to Part 1 of Schedule 2 to the 1985 Order. Paragraph 29 of Part 3 of Schedule 2 to the 1985 Order requires the returning officer to forward to the proper officer of the relevant council a completed Statement as to Postal Ballot Papers.

Part 3 of Schedule 2 makes amendments to Part 3 of Schedule 2 to the 1985 Order, which deals with the issue and receipt of postal ballot papers. In particular amendments are made by paragraph 19 to paragraph 6 of Part 3 of Schedule 2 to the 1985 Order to reflect the introduction of corresponding number lists. Paragraph 23 of Schedule 2 to the Order substitutes a new paragraph 11, also in part to reflect the introduction of corresponding number lists.

Article 6 amends the Elections Act 2001. This Act modifies the Parliamentary elections rules (contained in Schedule 1 to the Representation of the People Act 1983) and the Rules when a Parliamentary and local election are combined. The changes made reflect the changes to the Rules described above.

Article 7 of, and Schedule 3 to, the Order make provision for public inspection of the marked registers and certain other documents after an election. The relevant lists and documents are retained by the proper officer of the relevant district council to which the election was held. He or she must allow inspection of these registers, lists and documents and provide copies subject to the provision made. Access to these registers, lists and documents will now be consistent with the provision made for access after Parliamentary, Assembly and European Parliamentary elections in Northern Ireland.

A full impact assessment has not been produced for this instrument as no impact on the private or voluntary sector is foreseen.

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