
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

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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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