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DRAFT STATUTORY INSTRUMENTS

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**2001 No.**

**Local Elections (Northern Ireland) (Amendment) Order 2001**

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

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

2. In this Order—

“the 1962 Act” means the Electoral Law Act (Northern Ireland) 1962<sup>(1)</sup>, and

“the local elections rules” means the rules in Schedule 5 to that Act<sup>(2)</sup>.

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

(2) In subsection (2)(ii) (election expenses not exceeding £5 in aggregate incurred by individual backer or disparager)<sup>(3)</sup> for the words from “not exceeding” to “concerted with others,” substitute “incurred by any person which do not exceed in the aggregate the permitted sum (and are not incurred by that person as part of a concerted plan of action)”.

(3) After subsection (2) insert:

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

- (a) “the permitted sum” means £50 together with an additional 0.5p for every entry in the register of local electors for the district electoral area in question as it has effect on the last day for publication of notice of the election; and
- (b) expenses are to be regarded as incurred by a person “as part of a concerted plan of action” if they are incurred by that person in pursuance of any plan or other arrangement whereby that person and one or more other persons are to incur, with a view of promoting or procuring the election of the same candidate, expenses which (disregarding subsection (2)(ii)) might fall within subsection (1) above.”.

4.—(1) Section 42 of the 1962 Act (limit on candidates' election expenses)<sup>(4)</sup> is amended as follows.

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

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

(4) After section 42(1) insert:

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

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(1) 1962 c. 14 (N.I.).

(2) Schedule 5 was substituted by the Schedule in Schedule 1 to the Local Elections (Northern Ireland) Order 1985 (S.I. 1985/454).

(3) The sum of £5 was substituted by Schedule 1 to S.I. 1987/168.

(4) Section 42(1) was amended (so far as material) by article 9 of S.I. 1985/454; the sums in section 42(1) are as substituted by S.I. 1997/868.

5. Omit sections 85 to 90 of the 1962 Act (withdrawal or abatement of election petition).
6. Omit section 95(3) of the 1962 Act (incapacity of candidate at a local election reported guilty of a corrupt or illegal practice).
7. In section 96 of the 1962 Act (candidate or other person reported personally guilty of a corrupt or illegal practice)(5), for subsections (3) and (4) substitute:
- “(3) Subject to the provisions of subsection (3A) and section 113(2) to (6), a candidate or other person reported by an election court personally guilty of a corrupt or illegal practice—
- (a) shall during the relevant period specified in subsection (4) be incapable of—
- (i) being registered as an elector or voting at any local election in Northern Ireland, or
- (ii) holding any elective office; and
- (b) if already holding any such office shall vacate it as from the date of report.
- (3A) The incapacity incurred by subsection (3)(a)(i) applies to a candidate or other person reported personally guilty of a corrupt practice under paragraph 4 of Schedule 9 (personation) or of an illegal practice under paragraph 12A of Schedule 9 (other voting offences)(6).
- (4) For the purposes of subsection (3) the relevant period is the period beginning with the date of the report and ending—
- (a) in the case of a person reported personally guilty of a corrupt practice, five years after that date, or
- (b) in the case of a person reported personally guilty of an illegal practice, three years after that date.”.
8. For section 112(1) of the 1962 Act (incapacities resulting from conviction for corrupt and illegal practices)(7) substitute:
- “(1) Subject to subsection (1A), a person convicted of a corrupt or illegal practice—
- (a) shall, during the relevant period specified in subsection (1B), be incapable of—
- (i) being registered as an elector or voting at any local election in Northern Ireland, or
- (ii) holding any elective office; and
- (b) if already holding any such office shall vacate it subject to and in accordance with subsections (1C) and (1D).
- (1A) The incapacity imposed by subsection (1)(a)(i) applies only to a person convicted of a corrupt practice under paragraph 4 of Schedule 9 (personation) or of an illegal practice under paragraph 12A of Schedule 9 (other voting offences).
- (1B) For the purposes of subsection (1)(a) the relevant period is the period beginning with the date of the conviction and ending—
- (a) in the case of a person convicted of a corrupt practice, five years after that date, or
- (b) in the case of a person convicted of an illegal practice, three years after that date;
- except that if (at any time within that period of five or three years) a court determines on an appeal by that person against the conviction that it should not be upheld, the relevant period shall end at that time instead.

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(5) Section 96 has been amended but the amendment is not relevant to the subject matter of this Order.

(6) Paragraph 12A was inserted by Schedule 1 to S.I. 1987/168.

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

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

- (a) the end of the period which is the period prescribed by law within which notice of appeal may be given, or an application for leave to appeal may be made, by him in respect of the conviction, or
- (b) if (at any time within that period) that period is extended—
  - (i) the end of the period as so extended, or
  - (ii) the end of the period of three months beginning with the date of the conviction,whichever is the earlier.

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

- (a) such an appeal is dismissed or abandoned at any earlier time (in which case he shall vacate the office at that time), or
- (b) at any time within that period of three months the court determines on such an appeal that the conviction should not be upheld (in which case the office shall not be vacated by him).

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

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

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

- (a) the date on which the office is vacated in accordance with subsection (1C) or (1D), or
- (b) where subsection (1D)(b) applies, the date on which the court determines that the conviction should not be upheld.

(1H) Any incapacities or other requirement applying to a person by virtue of subsection (1F) applies in addition to any punishment imposed under section 108 or 109(8); but each of those subsections has effect subject to section 113.”

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

- (a) after the definition of “electors” insert:

““elective office” means any office to which a local election is held in Northern Ireland;” and
- (b) omit the definition of “public office”.

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

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

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(8) Sections 108 and 109 have been amended by Schedule 1 to S.I. 1987/168.

(9) Section 130 has been amended but the amendments are not relevant to the subject matter of this Order.

- (a) a description (of not more than 6 words in length) which is authorised as mentioned in rule 5A(1); or
- (b) the word “Independent”.

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

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

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

- (a) issued by or on behalf of the registered nominating officer of the party, and
- (b) received by the returning officer before the last time for the delivery of nomination papers.

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

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

- (a) “registered political party” means a party which was registered under Part II of the Political Parties, Elections and Referendums Act 2000(10) at the time by which the notice of election is required to be published by virtue of rule 1 (“the relevant time”);
- (b) a registered party is a qualifying party in relation to a district electoral area if the party was at the relevant time registered in the Northern Ireland register maintained under that Part of that Act.”.

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

“(7) In this rule “elector”—

- (a) means a person who is registered in the register of local electors for the district electoral area in question on the last day for publication of notice of the election; and
- (b) includes a person then shown in that register as below voting age if (but only if) it appears from the register that he will be of voting age on the day fixed for the poll.”.

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

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

(3) After paragraph (3) insert—

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

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

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

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

(2B) The request must—

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

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

(2) After paragraph (3) insert:

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

- (a) at least one large version of the ballot paper which shall be displayed inside the polling station for the assistance of voters who are partially-sighted;
- (b) a device falling within the description in paragraphs (5) to (10) for enabling voters who are blind or partially sighted to vote without any need for assistance from the presiding officer or any companion (within the meaning of rule 36(1)).”.

(3) After paragraph (4) insert:

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

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

(7) The tabs shall be capable of being positioned on the ballot paper so that each one is above one of the spaces to the left of the particulars of the candidates on which the vote is to be marked (“the relevant space”).

(8) Each tab shall be numbered so that, when the device is positioned over a ballot paper, the number of each tab corresponds to that of the candidate whose particulars are to the right of the relevant space covered by the tab in question.

(9) Each number on a tab shall be in raised form so that it can be clearly identified by touch.

(10) Each tab shall be capable of being lifted so as to reveal the relevant space and so that there is sufficient room to allow a voter to record his vote on that space.”.

**16.** In rule 29(1)(f) of the local elections rules (admission to polling station) for “blind voters” substitute “voters with disabilities”.

**17.**—(1) Rule 34 of the elections rules (voting procedure) is amended as follows.

(2) In paragraph (6)(f) (specified documents to include British seaman’s card)(**11**) for the words from “under” to the end substitute “or having effect as if made under section 79 of the Merchant Shipping Act 1995(**12**)”.

(3) In paragraph (6)(g) (specified documents to include plastic card with national insurance number embossed on it)(**13**) for the words “of Health and Social Security or the Department of Social Security” substitute “for Social Development”.

**18.** For rule 36 of the local elections rules substitute:

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(11) Paragraph (6)(f) was inserted by Schedule 1 to S.I. 1987/168.

(12) 1995 c. 21.

(13) Paragraph (6)(g) was inserted by S.I. 1991/1715.

**“Voting by persons with disabilities**

**36.—(1)** If a voter makes an application to the presiding officer to be allowed, on the grounds of—

- (a) blindness or other physical incapacity, or
- (b) inability to read,

to vote with the assistance of another person by whom he is accompanied (in these rules referred to as “the companion”), the presiding officer shall require the voter to declare, orally or in writing, whether he is so incapacitated by his blindness or other incapacity, or by his inability to read, as to be unable to vote without assistance.

(2) If the presiding officer—

- (a) is satisfied that the voter is so incapacitated, and
- (b) is also satisfied by a written declaration made by the companion (in these rules referred to as “the declaration made by the companion of a voter with disabilities”) that the companion—
  - (i) is a qualified person within the meaning of this rule, and
  - (ii) has not previously assisted more than one voter with disabilities to vote at the election,

the presiding officer shall grant the application, and then anything which is by these rules required to be done to or by that voter in connection with the giving of his vote may be done to, or with the assistance of, the companion.

(3) For the purposes of these rules, a person is a voter with disabilities if he has made such a declaration as is mentioned in paragraph (1) above, and a person shall be qualified to assist a voter with disabilities to vote if that person—

- (a) is a person who is entitled to vote as an elector at the election; or
- (b) is the father, mother, brother, sister, husband, wife, son or daughter of the voter and has attained the age of 18 years.

(4) The name and number in the register of electors of every voter whose vote is given in accordance with this rule and the name and address of the companion shall be entered on a list (in these rules referred to as “the list of voters with disabilities assisted by companions”).

In the case of a person voting as proxy for an elector, the number to be entered together with the voter’s name shall be the elector’s number.

(5) The declaration made by the companion—

- (a) shall be in the form in the Appendix; and
- (b) shall be made before the presiding officer at the time when the voter applies to vote with the assistance of a companion and shall forthwith be given to the presiding officer who shall attest and retain it.

(6) No fee or other payment shall be charged in respect of the declaration.”.

**19.** In rules 41(1)(f) and 58(1)(c) of the local elections rules for “blind voters” (wherever occurring) substitute “voters with disabilities”.

**20.** In the Appendix of Forms to the local elections rules, in the form headed “Form of nomination paper”—

- (a) omit note 3, and
- (b) in note 5, omit “or electors lists”.

21. In that Appendix, in the form headed “Candidate’s consent to nomination” for the words “a person to whom section 121 of the Electoral Law Act (Northern Ireland) 1962 applies” substitute “a citizen of the Republic of Ireland”.

22. In that Appendix, for the form of the front of the ballot paper substitute the form set out in the Schedule to this Order.

23. In that Appendix, in the form headed “Directions as to printing the ballot paper”—

- (a) at the end of paragraph 2(a) insert “and words forming part of emblems”,
- (b) in paragraph (2)(b) after “those particulars” insert “and emblems”, and
- (c) after paragraph 3 add—

“(3A) Where an emblem is to be printed against a candidate’s particulars—

- (a) it shall be printed between the candidate’s particulars and the vertical rule separating the candidates’ particulars from the spaces where the vote is to be marked, and
- (b) its size as printed shall not exceed two centimetres square.”.

24. In that Appendix, in the form headed “Form of declaration to be made by the companion of a blind voter”—

- (a) for “blind person” or “blind voter” (wherever occurring) substitute “voter with disabilities”; and
- (b) after the note at the end of the form (which shall become note 1), insert—

“2. A voter with disabilities is a voter who has made a declaration under the elections rules that he is so incapacitated by his blindness or other incapacity, or by his inability to read, as to be unable to vote without assistance.”.

25. For paragraph 8 of Schedule 8 to the 1962 Act (petition at issue) substitute:

**“Petition at issue**

8.—(1) The petition shall be at issue as from the relevant time, as defined by subparagraph (2).

(2) In this paragraph “the relevant time” means—

- (a) where the petitioner gives the security for costs required by paragraph 7 by a deposit of money equal to the amount of the security so required, the time when the security is so given; and
- (b) in any other case, the time when—
  - (i) the time prescribed for the making of objections under paragraph 7(4) expires, or
  - (ii) if such an objection is made, that objection is disallowed or removed, whichever happens later.”.

26. After paragraph 5 of Schedule 9 to the 1962 Act (corrupt practices) insert:

**“False statements in nomination papers, etc.**

5A. A person is guilty of a corrupt practice if he causes or permits to be included in a document delivered or otherwise furnished to a returning officer for use in connection with a local election—

- (a) a statement of the name or home address of a candidate at the election which he knows to be false in any particular; or
- (b) anything which purports to be the signature of an elector who proposes, seconds or assents to, the nomination of such a candidate but which he knows—
  - (i) was not written by the elector by whom it purports to have been written, or
  - (ii) if written by that elector, was not written by him for the purpose of signifying that he was proposing, seconding, or (as the case may be) assenting to, that candidate's nomination.”.

27. After paragraph 27 of Schedule 9 to the 1962 Act (electoral offences) insert:

**“Prohibition on publication of exit polls**

**27A.**—(1) A person who publishes before the poll at a local election is closed—

- (a) any statement relating to the way in which voters have voted at the election where that statement is (or might reasonably be taken to be) based on information given by voters after they have voted, or
- (b) any forecast as to the result of the election which is (or might reasonably be taken to be) based on information so given,

is guilty of an electoral offence.

(2) In this paragraph—

“forecast” includes estimate;

“publish” means make available to the public at large, or any section of the public, in whatever form and by whatever means;

and any reference to the result of an election is a reference to the result of the election either as a whole or so far as any particular candidate or candidates at the election is or are concerned.”.

28. Omit paragraph 31 of Schedule 9 to the 1962 Act (premises not to be used as committee rooms).

29.—(1) Paragraphs 18 and 29 of Schedule 1 to the Local Elections (Northern Ireland) (Amendment) Order 1987(14) are hereby revoked.

(2) The Local Elections (Variations of Limits of Candidates' Election Expenses) (Northern Ireland) Order 1997(15) is hereby revoked.

Clerk of the Privy Council

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(14) S.I. 1987/168.

(15) S.I. 1997/868.