

EXPLANATORY MEMORANDUM TO

THE EUROPEAN PARLIAMENTARY ELECTIONS (NORTHERN IRELAND) (AMENDMENT) REGULATIONS 2009

2009 No.

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

2. **Purpose of the instrument**

2.1 These Regulations amend the European Parliamentary Elections (Northern Ireland) Regulations 2004 (“the 2004 Regulations”) to reflect, in part, recent changes made to the legislation governing UK Parliamentary and Northern Ireland Assembly elections. They also apply certain proposals that were contained in the Government’s consultation paper; *Improving the Administration of Elections to the Northern Ireland Assembly* (pub. July 2008 “the Consultation Paper”) to the administrative framework for European Parliamentary elections in Northern Ireland.

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

3.1 None

4. **Legislative Context**

4.1 The 2004 Regulations make provision in Northern Ireland, which constitutes one electoral region for the purposes of elections to the European Parliament, for elections to the European Parliament.

4.2 The conduct of Parliamentary elections in Northern Ireland is provided for, in the main, by the Representation of the People Act 1983 (“the 1983 Act”) and the Representation of the People Act 1985. The 1983 Act has recently been amended by various provisions of the Electoral Administration Act 2006 (“the 2006 Act”) and, in relation to Northern Ireland, the Northern Ireland (Miscellaneous Provisions) Act 2006 (“the Miscellaneous Provisions Act”). The 2004 Regulations make the equivalent provision for European elections to that which applies for Parliamentary elections. These Regulations therefore make the necessary amendments to the 2004 Regulations to reflect the changes that were made by the 2006 Act and the Miscellaneous Provisions Act.

5. **Territorial Extent and Application**

5.1 This instrument applies to Northern Ireland only.

6. **European Convention on Human Rights**

- 6.1 The Minister of State for Northern Ireland, Paul Goggins, has made the following statement regarding Human Rights:

‘In my view the provisions of the European Parliamentary Elections (Northern Ireland) (Amendment) Regulations 2009 are compatible with the Convention rights.’

7. **Policy background**

7.1 These Regulations apply for the purposes of European Parliamentary elections the changes that have been made to electoral procedures by the 2006 Act, the Miscellaneous Provisions Act and other amendments to subordinate legislation made since the 2004 Regulations were introduced. They also incorporate some of the modifications that were proposed in the Consultation Paper.

Recent changes to legislation governing Westminster elections

7.2 The principal changes that are being made as a result of the 2006 Act and the Miscellaneous Provisions Act are applied by these Regulations to the European Parliamentary Elections Rules in schedule 1 to the 2004 Regulations. These include the introduction of corresponding numbered lists to replace counterfoils, changes to the process for the retention and inspection of electoral documents after the poll and provisions allowing for independent observers, approved by the Electoral Commission, to attend European election polling stations and counts. Changes have also been made to Schedule 2 of the 2004 Regulations to update the procedure for absent voting. These Regulations follow closely behind the European Parliamentary Elections (Amendment) Regulations 2009 which introduced these necessary updates to the administration of European elections for the rest of the UK. They therefore contribute to ensuring that, where appropriate, there is consistency in the application of electoral law throughout the UK.

Changes stemming from consultation on the Administration of Assembly Elections

7.3 In July 2008 the Government consulted on proposals for improving the administration of elections to the Northern Ireland Assembly. This consultation demonstrated that there was significant support for the application of a number of practical changes to the broader legislative framework governing elections in Northern Ireland. The Government therefore wrote to consultees requesting their views on whether similar provisions should be applied for the purpose of European Parliamentary elections. Four of the policy proposals from this consultation are included in the Regulations. Specifically: bringing the procedure for suspending the count at European elections into line with that for local and Assembly elections in Northern Ireland both of which are also held under the single transferable vote form of proportional representation; abolishing the requirement that a candidate's nomination paper must be subscribed by two electors as proposer and seconder and 28 other electors; simplifying the process for requesting the inclusion of party emblems on ballot papers; and regulating the release of information by presiding officers on the number of ballot papers issued on election day.

Provision of information by presiding officers

7.4 The lack of a statutory provision regulating the release of information by presiding officers on the number of ballot papers issued on election day has led to perceptions amongst party officials that the process is not being conducted even handedly. In some polling stations presiding officers have also had to endure excessive demands for this information. Consequently, during both the Assembly and the European consultations the main parties and the Chief Electoral Officer for Northern Ireland supported a proposal that this process should be formalised. A new provision has been included in these Regulations enabling the returning officer to direct presiding officers as to how and when this information may be released but otherwise prohibiting presiding officers from releasing it.

Other minor amendments

7.5 At the request of the Chief Electoral Officer 60+ Smartpasses and photographic provisional drivers licences have been included in the special list of documentation used to verify identity when voting.

8. Consultation outcome

8.1 The Northern Ireland Office is required by the Political Parties, Elections

and Referendums Act 2000, to consult with the Electoral Commission before making Regulations relating to European Parliamentary elections in Northern Ireland. Drafts of the Regulations have therefore been shared with the Commission as part of the consultation process.

8.2 The Consultation Paper was published in July 2008. In September 2008 the Minister also wrote to the Electoral Commission, the Northern Ireland and Westminster political parties, current Northern Ireland MEPs and the Chief Electoral Officer to seek their views on whether some of the policy changes proposed in it should also be applied to European elections in Northern Ireland. Five responses were received on the specific issue of European elections all of which were in line with those that had already been provided during the consultation on Assembly elections. There was widespread support for the introduction of provisions relating to the automatic suspension of the count, the abolition of subscribers for European elections and the simplification of the process for requesting the inclusion of party emblems on ballot papers. These changes have been made by these Regulations. The proposal relating to the release of information by presiding officers was supported by the majority of respondents. The Electoral Commission expressed some reservations about the proposal, including a concern that it would create inconsistency with other elections in the UK.

8.3 The Consultation Paper and Government Response are available at <http://www.nio.gov.uk/index/public-consultation.htm>.

9. Guidance

9.1 The Electoral Commission will prepare and issue guidance to electoral administrators on the amended regulations.

10. Impact

10.1 An Impact Assessment has not been prepared for this instrument as it has no impact on business, charities or voluntary bodies.

10.2 This legislation will benefit those public sector bodies which administer elections in Northern Ireland by providing up to date legislative guidance on the administration of European elections in Northern Ireland that is as consistent as far as possible with that which applies to other elections.

11. Regulating small business

11.1 The legislation does not apply to small business.

12. Monitoring & review

12.1 The Northern Ireland Office will keep the Regulations under review and will work with the Electoral Commission, electoral administrators and other stakeholders to ensure that any legislative lessons which are learnt in 2009 can be applied for future elections

13. Contact

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Northern Ireland Office
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