EXPLANATORY MEMORANDUM TO

THE ANONYMOUS REGISTRATION (NORTHERN IRELAND) ORDER 2014

2014 No. [XXXX]

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 This Order establishes a scheme of anonymous registration in Northern Ireland for people for whom the publication of their name and address would pose a threat to safety. It extends anonymous registration provisions made in primary legislation for Great Britain to Northern Ireland and makes some amendments to reflect a slightly different policy in Northern Ireland. It also makes provision for anonymous registration in relation to local elections in Northern Ireland and for some aspects of elections to the Northern Ireland Assembly.

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

3.1 None.

4. Legislative Context

4.1 Anonymous registration was introduced in Great Britain by section 10 of, and Schedule 1 to, the Electoral Administration Act 2006, which made amendments to provisions of the Representation of the People Act 1983 and related Acts. Those provisions have since been amended by the Electoral Registration and Administration Act 2013. More detailed provision was made for Great Britain in secondary legislation by amendment of the Representation of the People (England and Wales) Regulations 2001 and the Representation of the People (Scotland) Regulations 2001.

4.2 Anonymous registration was not extended to Northern Ireland in 2006. Instead, section 1 of the Northern Ireland (Miscellaneous Provisions) Act 2006 gave the Secretary of State the power to make equivalent provision for Northern Ireland by Order in Council under section 84 of the Northern Ireland Act 1998. This is the first time that this extended power has been used.

4.3 In February 2008, the Northern Ireland Office undertook a public consultation on proposals to address concerns held by those whose personal safety might be compromised if their details were publicly accessible on the full electoral register (*Anonymous Registration: Protecting Voters at Risk in Northern Ireland*). A consultation response was issued in February 2009. In September 2013, the Government undertook a further public consultation (*Anonymous*

registration: protecting voters at risk in Northern Ireland), which included draft legislation.

4.4 This instrument is linked to five other proposed instruments to implement the system of anonymous registration. Three of those other instruments were published in draft, and all five are described, in the Government consultation in September 2013.

5. Territorial Extent and Application

5.1 The provisions of this instrument have the same extent as the instruments which are amended by it.

6. European Convention on Human Rights

6.1 Andrew Robathan, Minister of State for the Northern Ireland Office, has made the following statement regarding Human Rights:

"In my view the provisions of the Anonymous Registration (Northern Ireland) Order 2014 are compatible with the Convention rights".

7. Policy background

7.1 The full electoral register lists the name and address of everyone who is entitled to vote. The main use of the full register is for elections and referendums, although it can be used for other purposes such as the prevention and detection of crime, eligibility for jury service, and for checking identity when applying for credit. It may also be seen, under supervision, by any member of the public (and partially copied by means of handwritten notes).

7.2 Anonymous registration allows a person who is at risk to register to vote without the risk of their name and address being available to someone who might be trying to trace their whereabouts. It does this by replacing their name and address on the register with a number. The number can then be cross-referenced against a list of voters held securely by the registration officer.

7.3 Anonymous registration was not extended to Northern Ireland when it was introduced in Great Britain because there were a number of differences in Northern Ireland which needed to be taken into account. These included differences in electoral law, for example the additional checks on identity used in Northern Ireland to prevent electoral fraud, as well as differences not linked to electoral matters, for example the operation of the jury system in Northern Ireland.

7.4 This Order extends many of the Great Britain provisions to Northern Ireland without amendment. However, some changes have been made to reflect differences in the Northern Ireland electoral system or in response to specific requests made by the Northern Ireland Executive and other devolved bodies. The main differences are:

a. The duration of registration will be longer than it is in Great Britain, with attestations covering a maximum of five years and registration covering the period of a particular order (up to a maximum of five years). This is intended to help the Police Service of Northern Ireland and other bodies manage the greater volume of applications for attestation that are expected in Northern Ireland. It will also facilitate the work of the Chief Electoral Officer: as there is no requirement for an annual canvass in Northern Ireland, it is common for entries to remain on the electoral register for a period of several years. In contrast to the position in Great Britain, the Chief Electoral Officer will be able to review entitlement to an anonymous entry if the person is no longer at risk.

b. Those with an anonymous entry will be automatically eligible for a postal vote and will not be able to vote in person. This is to avoid persons with an anonymous entry being questioned about their personal details at the polling station. All voters at polling stations in Northern Ireland are required to show photographic identification before receiving their ballot paper.

c. Linked to this provision, it will be possible to submit a tendered ballot paper by post. This is to ensure that persons with an anonymous entry in the register are not disadvantaged by the requirement to use a postal vote.

d. There are also differences between Northern Ireland and Great Britain in the way in which persons with an anonymous entry in the electoral register are selected for jury service. Persons with anonymous entries on the register will automatically be considered for jury service, rather than the juries officer having to make a specific request for details of anonymous entries, as is the case in England and Wales. Specific provision is made to protect information of anonymous electors which is disclosed as part of the jury selection process.

8. Consultation outcome

8.1 Changes made to policy on anonymous registration following the public consultation in 2008-9 include:

a. In response to concerns raised by PSNI about the additional workload that might be faced by the police, the creation of a longer attestation period

b. In response to comments from the Northern Ireland Courts Service and the Department of Justice Northern Ireland, changes to ensure persons with an anonymous entry remain eligible for jury service in Northern Ireland and that their details will remain protected during the jury selection process.

8.2 No changes have been made in response to comments following the publication of draft legislation in September 2013.

9. Guidance

9.1 The Northern Ireland Office is working with the Chief Electoral Officer for Northern Ireland, the Police Service of Northern Ireland, the Northern Ireland

Courts Service and the social services to prepare guidance for persons who may be eligible to apply for an anonymous entry and persons who will be involved in implementing the system, in advance of 15 September 2014. The Electoral Commission will also continue to prepare and issue guidance relating to electoral registration.

10. Impact

10.1 There is no impact on business, charities or voluntary bodies. An impact assessment has not been prepared for this instrument.

11. Regulating small business

11.1 The legislation does not apply to small business.

12. Monitoring & review

12.1 The Northern Ireland Office will keep the system of anonymous registration in Northern Ireland under review. The Electoral Commission and the Chief Electoral Officer for Northern Ireland also have a statutory duty to report on electoral registration.

13. Contact

13.1 Philippa Saunders, Head of the Constitutional Policy Team at the Northern Ireland Office Tel: 020 7210 6431 or email: philippa.saunders@nio.x.gsi.gov.uk can answer any queries regarding the instrument.

Northern Ireland Office
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