EXPLANATORY MEMORANDUM TO

THE DISTRICT ELECTORAL AREAS COMMISSIONER (NORTHERN IRELAND) ORDER 2012

2012 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 The District Electoral Areas Commissioner (DEAC) is responsible for making recommendations to the Secretary of State for Northern Ireland on grouping wards into electoral areas for the purposes of local government elections in Northern Ireland.

2.2 The District Electoral Areas Commissioner (Northern Ireland) Order 1984 (the 1984 Order) makes provision for the appointment of DEAC. This Order both makes provision for the appointment of a DEAC following the most recent 2008 local government boundary review and amends the 1984 Order in respect of this and any future appointments.

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

3.1 None.

4. Legislative Context

4.1 The 1984 Order makes provision for the appointment of and the functions of the DEAC. The DEAC makes recommendations to the Secretary of State as to how wards within local government districts in Northern Ireland should be grouped together to form District Electoral Areas (DEAs) for the purposes of local government election to those districts.

4.2 This Order makes provision for the appointment of a DEAC following the completion of the most recent local government boundary review. It also amends the 1984 Order so as to allow greater flexibility over the timing of a DEAC's appointment following any future boundary reviews. This Order also makes provision for the appointment of a replacement DEAC if a DEAC's appointment comes to an end before he or she has carried out their function.

4.3 The 1984 Order currently makes provision for the appointment of the DEAC *as soon as practicable* after the appointment (by the Northern Ireland Executive) of the Local Government Boundaries Commissioner (LGBC). In respect of the most recent review, the LGBC was appointed in 2008 and a DEAC appointed by the Secretary of State in 2010. However as the local

government boundaries were never settled the DEAC was unable to make his recommendations and his appointment was terminated. Provision is therefore required to enable a replacement appointment to be made in respect of this review and also to enable greater flexibility over the timing of appointments in future.

5. Territorial Extent and Application

5.1 This instrument extends to the United Kingdom but it only has application in Northern Ireland, as the 1984 Order extends to Northern Ireland only.

6. European Convention on Human Rights

6.1 The Minister of State for Northern Ireland, Mike Penning, has made the following statement regarding Human Rights:

'In my view the provisions of the District Electoral Areas Commissioner (Northern Ireland) Order 2012 are compatible with the Convention rights.'

7. Policy background

7.1 The Local Government (Boundaries) Act (Northern Ireland) 2008 established 11 new district councils in Northern Ireland. The LGBC made recommendations in 2009 as to the boundaries and names of those districts and the number, boundaries and names of their constituent wards. An order to give effect to these recommendations has been approved by the Northern Ireland Assembly and is expected to be made by the Department of the Environment (Northern Ireland) within the next two months.

7.2 The Secretary of State will need to appoint a DEAC to group the new wards for the purposes of elections to district councils using the single transferrable vote form of proportional representation (STV-PR). This will need to be done in time for the next local elections.

7.3 As explained above, a DEAC was appointed in 2009 but was unable to conclude his recommendations. Another DEAC will therefore need to be appointed and fresh provision is required to enable this. This Order also amends the existing appointment provisions contained in the 1984 Order. An LGBC must be appointed to carry out periodic boundary reviews and may also be appointed to carry out ad-hoc reviews. In respect of both of these a DEAC must be appointed as soon as practicable after the LGBC's appointment. This Order will give the Secretary of State greater discretion over the timing of such an appointment. Whilst the Secretary of State may appoint the DEAC at any time after the appointment of the LGBC, she or he is not required to do so until an order has been made by the Department of the Environment (Northern Ireland) establishing the new local government boundaries. Amendments to the 1984 Order made by this Order will also enable a DEAC to be reappointed

or another appointed in his or her place if for any reason the appointment comes to an end prior to recommendations having been made. The replacement appointment may be made at any time after the previous DEAC's appointment comes to an end, but if not already done so, the replacement appointment must be made as soon as practicable after an order is made giving effect to the LGBC's recommendations. In the case of the replacement appointment following the completion of the most recent local government boundary review, this must be made as soon as practicable after the coming into force of this Order.

8. Consultation outcome

8.1 The Electoral Commission has been consulted about the draft of this Order as required by section 7(3) of the Political Parties, Elections and Referendums Act 2000.

9. Guidance

9.1 This Order is not accompanied by any guidance.

10. Impact

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

11. Regulating small business

11.1 The legislation does not apply to small business.

12. Monitoring & review

12.1 The Northern Ireland Office will review the effectiveness of the legislation after the completion of the next District Electoral Areas Commissioner's review.

13. Contact

Philippa Saunders, Head of Elections and Parliamentary Unit 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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