Draft Order laid before Parliament under section 63(6) of the Electoral Administration Act 2006 (c.22), for approval by resolution of each House of Parliament.

DRAFT STATUTORY INSTRUMENTS

2008 No.

POLITICAL PARTIES

The Electoral Administration Act 2006 (Regulation of Loans etc: Northern Ireland) Order 2008

Made - - - - 2008

Coming into force in accordance with article 1(2)

In accordance with section 63(1) of the Electoral Administration Act 2006(**a**) ("the EA Act"), the Electoral Commission has been consulted prior to the making of this Order.

A draft of this Order has been laid before Parliament under section 63(6) of the EA Act and approved by a resolution of each House of Parliament.

Accordingly, the Secretary of State, in exercise of powers conferred on him by section 63(1) and (3)(a), (b), (c) and (e) of the EA Act (**b**), makes the following Order:

Citation and commencement

1.—(1) This Order may be cited as the Electoral Administration Act 2006 (Regulation of Loans etc: Northern Ireland) Order 2008.

(2) This article, articles 2 and 6 and shall come into force on the day after the day on which this Order is made and all other articles shall come into force on 1st July 2008.

Interpretation

2. In this Order —

"the 2000 Act" means the Political Parties, Elections and Referendums Act 2000(**c**);

"the 2006 Act" means the Northern Ireland (Miscellaneous Provisions) Act 2006(**d**);

"the EA Act" means the Electoral Administration Act 2006;

"the Commission" means the Electoral Commission established under section 1 of the 2000 Act; and

"Northern Ireland register" means the register of political parties held under section 23(2)(b) of the 2000 Act.

(**a**) 2006 c.22.
(**b**) The powers in section 63(1) are limited by section 63(2) and section 64(4) makes further provision about the nature of any order making power conferred under section 63(3)(c).
(**c**) 2000 c.41.
(**d**) 2006 c.33.

Extension of categories of authorised participants

3.—(1) Sections 71F to 71Y of the 2000 Act (**a**) shall become Chapter 1 of Part 4A of the 2000 Act.

(2) After section 71Y insert—

"CHAPTER 2

SPECIAL PROVISION IN CONNECTION WITH NORTHERN IRELAND

71Z Introduction

(1) The following provisions have effect for the interpretation of this Chapter.

(2) "Northern Ireland participant" means —

(a) a party registered in the Northern Ireland register, or

(b) a regulated participant who is—

(i) an individual ordinarily resident in Northern Ireland, or

(ii) a members association wholly or mainly consisting of members of a Northern Ireland party.

(3) "Regulated participant" and "members association" have the same meaning as in Schedule 7A.

(4) "Prescribed" means prescribed by an order made by the Secretary of State after consulting the Commission.

71Z1 Extension of categories of authorised participants in relation to Northern Ireland participants

(1) In relation to a regulated transaction or controlled transaction involving a Northern Ireland participant, section 71H(3) and paragraph 4(3) of Schedule 7A have effect as if the following were also authorised participants—

(a) an Irish citizen in relation to whom any prescribed conditions are met;

(b) a body which is of a prescribed description or category and in relation to which any prescribed conditions are met.

(2) A description or category of body must not be prescribed for the purposes of subsection (1)(b) unless the Secretary of State is satisfied that a body of that description or category would be entitled under Irish law to enter into a transaction which corresponds to a regulated or controlled transaction in relation to an Irish political party.

71Z2 Northern Ireland participants are not authorised participants in relation to Great Britain

(1) In relation to a regulated transaction or controlled transaction to which—

(a) a registered party which is registered in the Great Britain register, or

(b) a regulated participant resident or carrying on activities in Great Britain,

is a party, section 71H(3) and paragraph 4(3) of Schedule 7A, have effect as if a party registered in the Northern Ireland register is not an authorised participant.

(2) The reference in subsection (1)(b) to Great Britain includes the combined region."

(**a**) Sections 71F to 71X were inserted by section 61 of the EA Act and section 71Y was inserted by paragraph 98 of Schedule 1 to the EA Act.

Article 3: supplementary

4.—(1) In section 156(4) of the 2000 Act(**a**)(orders and regulations- powers subject to affirmative procedure), after paragraph (dc) insert—

"(dd) any provision of Chapter 2 of Part 4A,".

(2) In section 159A(a) of the 2000 Act(**b**) (functions which are not exercisable by the Lord Chancellor as well as by the Secretary of State), for ",18(2) and (4) and Chapter 6 of Part 4" substitute ",18(2) and (4), Chapter 6 of Part 4 and Chapter 2 of Part 4A".

(3) Section 13(2) of the 2006 Act is repealed.

Modifications during the prescribed period

5.—(1) During the prescribed period, the 2000 Act applies in relation to Northern Ireland subject to the modifications set out in Schedule 1 to this Order.

(2) "The prescribed period" means the period—

(a) starting with 1st July 2008, and

(b) ending with 31st October 2010.

(3) At the same time as the Secretary of State makes an order under section 14(3) of the 2006 Act he may, after consulting the Commission, by order amend sub-paragraph (2)(b) so as to extend the prescribed period.

(4) The power to make an order under paragraph (3) may be exercised on more than one occasion, but the prescribed period must not be extended for more than two years at a time.

(5) The power to make an order under paragraph (3) is exercisable by statutory instrument.

(6) No order is to be made under paragraph (3) unless a draft of the instrument containing the order has been laid before and approved by a resolution of each House of Parliament.

(7) When an order is made under paragraph (3) amending sub-paragraph (2)(b) so as to extend the prescribed period, the date which is inserted in sub-paragraph (2)(b) must be the same as that inserted in section 14(2)(b) of the 2006 Act by an order made under section 14(3) of that Act.

Power to make provision in connection with authorised participants

6.—(1) The Secretary of State may, after consulting the Commission, by order make provision, in relation to any time occurring on or after 1st July 2008, in connection with any provision made by—

(a) articles 3 and 4, or

(b) article 5 of, and Schedule 1 to, this Order.

(2) The provision which may be made under paragraph (1) includes provision amending or modifying—

(a) any provision of the 2000 Act;

(b) any other enactment connected with authorised participants, regulated transactions or controlled transactions.

(3) The provision that may be made under paragraph (1) also includes provision amending section 71Z2 of the 2000 Act (as inserted by article 3) so that it refers to a Northern Ireland participant instead of referring to a party registered in the Northern Ireland register.

(4) The power to make an order under paragraph (1) is exercisable by statutory instrument.

(**a**) Section 156(4)(ca) was inserted by section 13(1) of the 2006 Act; section 156(4)(d) was repealed by section 11(8)(a)(iii) of, and Schedule 5 to, the 2006 Act; section 156(4)(da) to (dc) were inserted by section 61(4)(a) of the EA Act and section 156(4)(ha) was inserted by section 61(4)(b) of that Act and section 156(4)(ia) was inserted by section 61(7) of the EA Act.

(**b**) Section 159A was inserted by S.I.2002/2626 and in paragraph (a) the words ",18(2) and (4) and Chapter 6 of Part 4" were substituted by section 13(2) of the 2006 Act.

(5) No order is to be made under paragraph (1) unless a draft of the instrument containing the order has been laid before and approved by a resolution of each House of Parliament.

Minor and consequential amendments

7. Schedule 2 (minor and consequential amendments) has effect.

Northern Ireland Office
2008 Minister of State

SCHEDULE 1

Article 5

Modifications of 2000 Act

Duty of Commission to verify reports and not to disclose their contents

1. After section 71Z2 of the 2000 Act (as inserted by article 3) insert–

"71Z3 Duty to verify transaction reports

(1) The Commission must take such steps as are prescribed for the purposes of verifying the information given in Northern Ireland reports.

(2) "Northern Ireland report" means a report to the Commission which—

(a) is prepared by a Northern Ireland participant, and

(b) contains, or purports to contain, information required to be given by Schedule 6A or 7A.

71Z4 Duty not to disclose contents of transaction reports

(1) A person who is or has been a member or employee of the Commission must not disclose any information which –

(a) relates to a transaction to which a Northern Ireland participant is a party, and

(b) has been obtained by the Commission in the exercise of their functions under this Part,

except in the following cases.

(2) Such information may be disclosed–

(a) to a member or employee of the Commission, or

(b) to such bodies as may be prescribed,

for the purpose of verifying information given in a Northern Ireland report.

(3) Such information may be disclosed for the purposes of any criminal or civil proceedings.

(4) Such information may be disclosed in accordance with any prescribed requirements if it relates to a transaction which the Commission believe, on reasonable grounds, was a transaction which was required to be dealt with under section 71I or 71J or paragraph 5 or 6 of Schedule 7A (transactions involving unauthorised participants).

(5) A person who contravenes subsection (1) is guilty of an offence."

2. In Schedule 20 to the 2000 Act (penalties), after the entry relating to 71T(5)(**a**) insert—

(**a**) The entry relating to section 71T(5) was inserted by was inserted by section 61(6) of the EA Act.

"Section 71Z4(5)(disclosing Northern Ireland transaction reports)	On summary conviction in England and Wales: Level 5 or 51 weeks On summary conviction elsewhere: Level 5 or 6 months"

No rights to inspect etc. register so far as it relates to regulated or controlled transactions to which a Northern Ireland participant is a party

3. In section 149 of the 2000 Act (**a**)(inspection of the Commission's registers etc.) after subsection (9) insert—

"(10) Subsections (2) to (4) do not apply to so much of the register maintained under section 71V as concerns recordable transactions to which a Northern Ireland participant is a party.

(11) "Northern Ireland participant" has the same meaning as in Chapter 2 of Part 4A."

SCHEDULE 2

Article 7

Minor and consequential amendments

1.—(1) Section 150 of the 2000 Act is amended as follows.

(2) In subsection (3)(c) before "1 year" (in both places) insert "51 weeks,".

(3) After subsection (4)(**b**) insert—

"(5) In the application of Schedule 20 to England and Wales in relation to an offence committed before the commencement of section 281(5) of the Criminal Justice Act 2003 (alteration of penalties for summary offences), a reference to 51 weeks is to be read as a reference to 6 months."

(**a**) Section 149(8) and (9) were inserted by section 14 of, and paragraph 3 of Schedule 1 to, the 2006 Act.
(**b**) Section 150(4) was inserted by S.I.2004/366.

EXPLANATORY NOTE

(This note is not part of the Order)

The Political Parties, Elections and Referendums Act 2000 (c.41)("the 2000 Act") makes provision about loans to parties registered in the register of political parties in Northern Ireland in Part 4A of, and Schedules 6A and 7A to, that Act (as inserted by section 61 of, and Part 6 of Schedule 1 to, the Electoral Administration Act 2006 (c.22)("the EA Act")).

Section 63 of the EA Act provides the Secretary of State with an order making power to make modifications to the loans regime as it applies in Northern Ireland in a way which corresponds to, or is similar to, any provisions made in the Northern Ireland (Miscellaneous Provisions) Act 2006 (c.33)("the 2006 Act") relating to the donations regime.

The donations regime in Part 4 of the 2000 Act applies to Northern Ireland. However, the effect of sections 71A and 71B of the 2000 Act, as inserted by section 12 of the 2006 Act, is to enable parties registered in the Northern Ireland register, individuals and members associations to accept donations from Irish citizens and Irish bodies which meet prescribed conditions. This is in recognition of the special place which Ireland occupies in the political life of Northern Ireland. Until 31st October 2010 the details of donation reports provided by parties registered in the Northern Ireland register, individuals and members associations will not be made public in the light of concern that donors would not want their details to be made public because of the potential for intimidation. Section 14 of, and Schedule 1 to, the 2006 Act modify the 2000 Act to place a duty on the Electoral Commission ("the Commission") to verify the information contained in such donation reports during this period.

Article 3 of this Order inserts new sections 71Z, 71Z1 and 71Z2 in the 2000 Act. These sections make equivalent provision in relation to loans to that made in relation to donations by sections 71A to 71C of the 2000 Act. New section 71Z specifies the "Northern Ireland participants" who are able to enter into regulated and controlled transactions. New section 71Z1 provides for two additional categories of authorised participants in respect of Northern Ireland participants: citizens of Ireland and prescribed Irish bodies. These authorised participants will have to meet any conditions which may be prescribed in order to be able to enter into a regulated or controlled transaction involving a Northern Ireland participant.

New section 71Z2 prevents Northern Ireland parties from making loans to parties or regulated participants in Great Britain.

Article 5 provides that the modifications of the 2000 Act set out in Schedule 1 to the Order apply to Northern Ireland participants during the "prescribed period". The prescribed period is initially from 1st July 2008 until 31st October 2010, but article 5(3) gives the Secretary of State power to extend it by order for up to two years at a time. The Secretary of State may not make an order under article 5(3) unless he is making an order under section 14 of the 2006 Act at the same time. After the prescribed period has expired, the 2000 Act provisions will apply in Northern Ireland without modification.

Article 6 gives the Secretary of State power to make an order modifying legislation connected with the Northern Ireland participants. The power may only be used after consultation with the Commission and any order made under this power is subject to the draft affirmative procedure in both Houses of Parliament.

Schedule 1 to this Order sets out the modifications to the 2000 Act which govern how the Commission is to operate in relation to transaction reports made by Northern Ireland participants during the prescribed period. New section 71Z3 places a duty on the Commission to verify information contain in transaction reports submitted by Northern Ireland participants. The steps that the Commission must take in this regard will be prescribed in an Order made by the Secretary of State. New section 71Z4 places a duty of confidentiality on the Commission in relation to information contained in transaction reports from Northern Ireland participants. A member or employee of the Commission may disclose information in such reports only in certain exceptional

circumstances. The disclosure of information contained in transaction reports and which is disclosed other than in these circumstances constitutes an offence (section 71Z4(5)). Paragraph 2 of Schedule 1 provides for the penalties which attach to this offence. Paragraph 3 modifies section 149 of the 2000 Act to ensure that the registers of transaction reports kept by the Commission are not made public during the prescribed period.

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