EXPLANATORY MEMORANDUM TO

THE FLAGS (NORTHERN IRELAND) (AMENDMENT) REGULATIONS 2023

2023 No. [XXXX]

1. Introduction

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

2. Purpose of the instrument

2.1 The purpose of these regulations is to amend the Flags Regulations (Northern Ireland) 2000 (S.R. 2000/347) ("the 2000 Regulations"), which make provision for when flags are to be flown from Government buildings in Northern Ireland. These Regulations amend the 2000 Regulations to change the date of the entry for the birthday of the Prince of Wales, from 14 November to 21 June; remove from the list of designated days, Her Majesty's Accession (6 February); Birthday of Her Majesty The Queen (21 April); Official Celebration of Her Majesty's Golden Jubilee (1 June 2002); Coronation Day (2 June); Official Celebration of Her Majesty's Golden Jubilee (3 June 2002); Official Celebration of Her Majesty's Golden Jubilee (4 June 2002); and insert the following entries, His Majesty's Wedding Day (9 April); Coronation Day (6 May); Birthday of the Queen Consort (17 July); His Majesty's Accession (8 September); and Birthday of His Majesty The King (14 November).

3. Matters of special interest to Parliament

Matters of special interest to the Joint Committee on Statutory Instruments

3.1 None.

4. Extent and Territorial Application

4.1 The extent of this instrument (that is, the jurisdiction(s) which the instrument forms part of the law of) is Northern Ireland.

4.2 The territorial application of this instrument (that is, where the instrument produces a practical effect) is Northern Ireland.

5. European Convention on Human Rights

5.1 The Rt Hon Steve Baker MP, Minister of State for Northern Ireland, has made the following statement regarding Human Rights:

"In my view the provisions of the Flags (Northern Ireland) (Amendment) Regulations 2023 are compatible with the Convention rights."

6. Legislative Context

6.1 The Flags (Northern Ireland) Order 2000 (S.I. 2000/1347) ("the 2000 Order") gives the Secretary of State for Northern Ireland the power to make regulations regulating the flying of flags at Northern Ireland Government buildings and court-houses. For the purposes of the 2000 Order, Northern Ireland Government buildings are defined as

a "building wholly or mainly occupied by members of the Northern Ireland Civil Service".

6.2 Where the Secretary of State proposed to make Regulations under the 2000 Order, in accordance with Article 4 of the 2000 Order, a draft of the proposed regulations was referred to the Northern Ireland Assembly on 17 February 2023. In an accompanying letter the Secretary of State informed the Assembly Speaker of his intention to bring forward legislation and gave the Assembly an opportunity to express its views in a report to the Secretary of State.

6.3 If the Assembly reports to the Secretary of State the Assembly's views on proposed regulations then the Secretary of State must consider that report and lay a copy of it alongside the draft regulations. The Assembly has provided no such report.

6.4 The Secretary of State has however committed to laying any Assembly report in Parliament should this be submitted at a later date outside the deadline set in his letter of 17 February.

6.5 The Secretary of State has had regard to the Belfast Agreement in preparing these Regulations and laying them for affirmative approval by both Houses of Parliament.

6.6 The 2000 Regulations regulate the flying of flags at Northern Ireland Government buildings: they designate the days on which the Union flag, and in certain circumstances, other flags, should be flown, and also specify certain buildings at which the Union flag must fly on the designated days listed in Part 2 of the Schedule to the Regulations. These specified buildings were chosen as they were the headquarter buildings of Northern Ireland Government departments.

7. Policy background

What is being done and why?

7.1 Following the list of designated days for flag flying being updated by the Department for Digital, Culture, Media and Sport (DCMS) on 9 February 2023 these Regulations make provision for the revised set of dates to be observed at Government buildings and courthouses in Northern Ireland.

7.2 As such, the revised list of designated days for the flying of the Union Flag removes dates related to Her Late Majesty The Queen and adds several entries related to King Charles III, an entry for the birthday of the Queen Consort, and update the date of the entry for the birthday of the Prince of Wales.

7.3 Making this change will mean that Northern Ireland Government buildings and courthouses will continue to observe the same designated days as in the rest of the United Kingdom going forward.

8. European Union Withdrawal and Future Relationship

8.1 This instrument does not relate to withdrawal from the European Union / trigger the statement requirements under the European Union (Withdrawal) Act

9. Consolidation

9.1 This instrument does not consolidate any current legislation.

10. Consultation outcome

10.1 The Secretary of State for Northern Ireland referred the draft regulations to the Northern Ireland Assembly, as required by Article 4 of the 2000 Order (see paragraph 6.1 above).

11. Guidance

11.1 Not relevant.

12. Impact

12.1 There is no, or no significant, impact on business, charities or voluntary bodies.

12.2 There is no, or no significant, impact on the public sector.

12.3 A full Impact Assessment has not been prepared for this instrument because it has no impact on businesses or charities.

13. Regulating small business

13.1 The legislation does not apply to activities that are undertaken by small businesses.

14. Monitoring & review

14.1 The approach to monitoring of this legislation is not considered necessary.

14.2 The instrument does not include a statutory review clause.

15. Contact

15.1 Sinead Johnson at the Northern Ireland Office Telephone: 07824834773 or email: Sinead.Johnson@nio.gov.uk can be contacted with any queries regarding the instrument.

15.2 Holly Clark, Deputy Director for the Constitution and Rights Policy Group at the Northern Ireland Office can confirm that this Explanatory Memorandum meets the required standard.

15.3 Rt Hon Steve Baker MP, Minister of State at the Northern Ireland Office can confirm that this Explanatory Memorandum meets the required standard.