EXPLANATORY MEMORANDUM TO

THE LOCAL ELECTIONS (NORTHERN IRELAND) (AMENDMENT) ORDER 2021

[2021] 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 Her Majesty.

2. Purpose of the instrument

2.1 The purpose of this Order is to increase transparency and provide greater clarity for voters in relation to who is campaigning for and supporting candidates at local government elections. A so called 'imprint' is added to election campaign material to show who is responsible for its production. The Order amends the Electoral Law Act (Northern Ireland) 1962 (c. 14 (N.I)) (the "1962 Act") to bring the provisions in relation to imprint information in respect of local elections in Northern Ireland into line with the imprint regime for particular candidates at Parliamentary elections in Great Britain and local elections in England and Wales as set out in section 110 of the Representation of the People Act 1983 (the "1983 Act").

3. Matters of special interest to Parliament

Matters of special interest to the Joint Committee on Statutory Instruments

3.1 None.

Matters relevant to Standing Orders Nos. 83P and 83T of the Standing Orders of the House of Commons relating to Public Business (English Votes for English Laws)

3.2 The territorial application of this instrument is limited to Northern Ireland.

3.3 This instrument and the 1962 Act only concern elections in Northern Ireland and have no application elsewhere in the UK.

4. Extent and Territorial Application

4.1 The territorial extent of this instrument is Northern Ireland.

4.2 The territorial application of this instrument is Northern Ireland.

5. European Convention on Human Rights

5.1 The Minister of State for Northern Ireland, Robin Walker MP, has made the following statement regarding Human Rights:

"In my view the provisions of the Local Elections (Northern Ireland) (Amendment) Order 2021 are compatible with the Convention rights."

6. Legislative Context

6.1 The legislative approach to imprint information for local elections in Northern Ireland is currently inconsistent with the approach taken for Parliamentary elections and local elections in Great Britain. Section 143 and paragraph 14 of Schedule 18 to the

Political Parties, Elections and Referendums Act 2000 (the "2000 Act") make changes to the imprint requirements for various elections, including Parliamentary elections and local elections in England and Wales. The provisions were commenced for Great Britain on 1 January 2006 but have not yet been commenced in Northern Ireland.

6.2 Section 143 of the 2000 Act requires that advertisements and other election material designed to promote or procure the electoral success of a registered party or candidates who hold particular opinions must include certain specified information. In Northern Ireland, Section 143 applies to Parliamentary elections, Northern Ireland Assembly elections and local elections.

6.3 Paragraph 14 of Schedule 18 to the 2000 Act substitutes section 110 of the 1983 Act. Section 110 is concerned with the information that must appear on election publications intended to promote or procure the election of a particular candidate. In Northern Ireland, Section 110 applies to Parliamentary elections and is also applied to Northern Ireland Assembly elections by S.I. 2001/2599. Section 110 does not, however, apply to Northern Ireland local elections.

6.4 The Government intends to make a separate order commencing section 143 and paragraph 14 of Schedule 18 to the 2000 Act. That commencement order will bring the position for Northern Ireland in line with that in Great Britain except for local elections, as section 110 of the 1983 Act does not apply to Northern Ireland local elections. This Order makes equivalent provision to section 110 for Northern Ireland local elections.

7. Policy background

What is being done and why?

7.1 Imprints are the details which must by law be shown on campaign material at elections to show who is responsible for the production of election material which can reasonably be regarded as intended to promote or procure the election of a candidate, candidates or political parties at an election.

7.2 In 2018, Cabinet Office carried out a UK-wide digital imprints consultation and there was a general acceptance by respondents to the consultation that the Northern Ireland imprints regime, including that in respect of printed electoral material, should be aligned with Great Britain.

7.3 This Order achieves that by framing an imprint regime for local elections in respect of printed electoral material for candidates which mirrors that in place for Parliamentary elections in Great Britain. In addition, a separate commencement order will implement an equivalent regime in respect of (i) registered political parties; and (ii) candidates who hold particular opinions by applying the provisions of section 143 of the Political Parties, Elections and referendums Act 2000.

7.4 This order requires printed campaign material for particular local election candidates in Northern Ireland to display the following:

(a) the name and address of the printer of the document,

(b) the name and address of the promoter of the material, and

(c) the name and address of any person on behalf of whom the material is being published (and who is not the promoter).

8. European Union (Withdrawal) Act/Withdrawal of the United Kingdom from the European Union

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 2018 Cabinet Office consultation (Protecting the Debate: Intimidation, Influence and Information) included consultation on the policy proposals, and a subsequent consultation on the draft statutory instrument. The consultation specifically asked the following questions:

> Question 24: Should the imprint rules in PPERA be commenced for Northern Ireland?
>
> Question 25: Should the imprint rules for Northern Ireland elections be the same as for the rest of the United Kingdom?

The majority of respondents advocated a consistent application of Political Parties, Elections and Referendums Act (PPERA) 2000 imprint rules across the UK.

10.2 The Electoral Commission have requested that Northern Ireland legislation on imprints to be brought in line with that in Great Britain.

10.3 The Northern Ireland Office consulted the Electoral Commission and the Information Commissioner. None of the bodies with whom we consulted raised any concerns about the policy. The Electoral Commission welcomed the provisions of the instrument.

11. Guidance

11.1 The Electoral Commission will provide guidance to candidates and their agents in advance of elections.

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 An Impact Assessment has not been prepared for this instrument because no, or no significant, impact on the private, voluntary or public sectors is foreseen.

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 Electoral Commission for Northern Ireland will monitor the implementation of the measures.

15. Contact

15.1 Katherine Herrick at the Northern Ireland Office (Telephone 02072106483 or Katherine.herrick@nio.gov.uk) can be contacted with any queries regarding the instrument.

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

15.3 Robin Walker, Minister of State at the Northern Ireland Office, can confirm that this Explanatory Memorandum meets the required standard.