EXPLANATORY MEMORANDUM TO

THE NORTHERN IRELAND ASSEMBLY (ELECTIONS) (AMENDMENT) ORDER 2007

2007 No.

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

This memorandum contains information for the Joint Committee on Statutory Instruments.

2. Description

2.1. Section 27 of the Electoral Administration Act 2006 ("2006 Act") amends the Representation of the People Act 1983("1983 Act") to provide for a new definition of election expenses. This Order applies this new definition to elections to the Northern Ireland Assembly by amending the Northern Ireland Assembly (Elections) Order 2001 ("2001 Order").

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

3.1. None.

4. Legislative Background

4.1. Elections to the Northern Ireland Assembly ("the Assembly") are conducted in accordance with the provisions of the Representation of the People Act 1983, the Representation of the People Act 1985 and the Elections (Northern Ireland) Act 1985, which are listed in the left-hand column of Schedule 1 to the Northern Ireland Assembly (Elections) Order 2001. These provisions are subject to the specific modifications in the right-hand column of that Schedule and the general modifications in article 3(3) of that Order.

4.2 Section 27 of the 2006 Act repeals sections 90A and 90B of the 1983 Act (which define the meaning of election expenses), both of which are applied to Assembly elections by the 2001 Order. Section 27 also amends the 1983 Act to include new section 90ZA and Schedule 4A which now define election expenses. However, neither of these new provisions are yet applied to Assembly elections by virtue of the 2001 Order. The 2001 Order therefore needs to be amended in order that the new definition of election expenses should apply to the Assembly elections to held in March 2007 as provided for in the Northern Ireland (St Andrews Agreement) Act 2006.

5. Extent

5.1. This instrument applies in Northern Ireland only.

6. European Convention on Human Rights

6.1. David Hanson has made the following statement regarding Human Rights:

In my view the provisions of the Northern Ireland Assembly (Elections)(Amendment) Order 2007 are compatible with Convention rights.

7. Policy Background

7.1 The 2006 Act makes a number of amendments to the legislation governing the conduct of parliamentary elections in the UK.

7.2 The legislation governing parliamentary elections in the UK is applied to elections to the Northern Ireland Assembly by the 2001 Order with modifications where necessary. It was the intention of the Northern Ireland Office to carry through the amendments made by the 2006 Act to Northern Ireland Assembly elections by amending the 2001 Order in 2007 when all the relevant provisions of the 2006 Act had been commenced.

7.3 The emergency Northern Ireland (St Andrews Agreement) Act 2006 made provision for an election to the Northern Ireland Assembly to take place in March 2007. As this is before the amendments to the 2001 Order have been made, we have considered whether there are any modifications to the 2001 Order (flowing from the provisions of the 2006 Act which have been commenced and which amend legislation which is applied to Assembly elections by means of the 2001 Order) which need to be made now in order for the March 2007 election to take place smoothly.

7.4 Section 27 of the 2006 Act, which was commenced for the whole of the UK on 11 September 2006, amends the 1983 Act in relation to the definition of election expenses by inserting new section 90ZA and new Schedule 4A. This Order amends the 2001 Order to ensure that this new definition of election expenses applied to the Assembly election in March 2007.

7.5. The Electoral Commission have been consulted on the draft instrument.

8. Impact

8.1. A Regulatory Impact Assessment has not been prepared for this instrument as it has no impact on the public sector, businesses, charities or voluntary bodies.

9. Contact

9.1. Ruth Sloan at the Northern Ireland Office (tel: 020 7210 6569 or e-mail: ruth.sloan@nio.x.gsi.gov.uk) can answer any queries regarding the instrument.