EXPLANATORY MEMORANDUM TO

THE NORTHERN IRELAND ELECTIONS (COMBINED POLLS 2027) REGULATIONS 2026

2026 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. Declaration

2.1 Sir Chris Bryant MP, Secretary of State for Northern Ireland at the Northern Ireland Office, confirms that this Explanatory Memorandum meets the required standard.

2.2 Eleanor Hayden, Deputy Director for Transformation, Constitution and Rights at the Northern Ireland Office, confirms that this Explanatory Memorandum meets the required standard.

3. Contact

3.1 Claire McGregor, Head of Elections Policy at the Northern Ireland Office, can be contacted by email at the following address with any queries regarding the instrument: crsg@nio.gov.uk, or by writing to the Northern Ireland Office, Erskine House, Belfast BT1 4GF.

Part One: Explanation, and context, of the Instrument

4. Overview of the Instrument

What does the legislation do?

4.1 This instrument will modify the Assembly Election Rules and the Local Election Rules (and certain other election legislation that applies in Northern Ireland) to allow the polls at the Northern Ireland Assembly election and the polls at local elections in Northern Ireland, which are scheduled for 6 May 2027, to be taken together rather than held as two separate standalone elections. The instrument will also amend both sets of election rules to change some parts of the election timetable in order to extend the time available to carry out various parts of the election. For example, this instrument moves the date for the opening and closing of nomination to a slightly earlier date in the timetable which will allow extra time to print ballot papers. The instrument will only modify the rules for the purpose of the 2027 elections and will not apply to any future elections that are combined.

Where does the legislation extend to, and apply?

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

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

5. Policy Context

What is being done and why?

5.1 The law currently requires that the Northern Ireland Assembly and local elections are set to take place on 6 May 2027. For all elections there are rules set out in legislation as to how they should be conducted. The rules for how each of these elections should be conducted is set out in the Assembly Election rules and the Local Election rules respectively. Section 15(3A) of the Representation of the People Act 1985 allows the Chief Electoral Officer for Northern Ireland to take the polls at both elections together. That section further provides the Secretary of State with the power to make regulations to enable combined polls to be held; including enabling the Secretary of State to modify the existing election legislation. Without the modifications made by these Regulations the Chief Electoral Officer would be required to hold each election as a separate stand-alone election.

5.2 This would result in considerable inefficiencies and a duplication of processes. For example, two poll cards would need to be sent, two ballot boxes would be required, and polling station staff would need to mark two registers. Additionally, the counts for each election would be required to take place simultaneously. Both of these elections use the Single Transferable Vote (STV) voting system. Therefore, each count involves various stages and will be longer than the count at elections for which first past the post voting systems are used. It is therefore not practical to conduct the counts simultaneously and the regulations remove this requirement.

5.3 It is usual practice when elections are held on the same day to combine various elements of the election process to allow the elections to run smoothly and efficiently. On the last occasion local and Assembly elections were held on the same day, the *Parliamentary Voting and Constituencies Act 2011*, modified the provisions governing those elections and made further provision to allow the poll at the Alternative Vote referendum to be taken with those polls.

5.4 These changes will only apply to the 2027 combined elections. The main changes to rules this instrument will make are set out in paragraphs 5.5 to 5.14 below.

<u>Electoral timetable changes</u>

5.5 To alleviate timetabling pressures and to assist in the delivery of the combined elections, the election timetable for both the Assembly and local elections taking place on 6 May 2027 will be extended by 1 week. This will mean dissolving the Assembly on the 23 March rather than 31 March in 2027. This change is provided for by the Northern Ireland Assembly (Minimum Period) (Amendment) Order 2026 (S.I. 2026/1080). These Regulations move certain other election deadlines forward.

5.6 The changes to the electoral timetable in this instrument apply to each election and are to a) adjust the close of nominations to the 19th day before the poll instead of the 16th day before the poll; b) adjust the time for deadline for objections to nominations to the 19th before the poll; c) adjust the deadline for publishing the statement of persons nominated to the 19th day before the poll instead of the 16th day before the poll. Along with extending time for all administrative actions, these changes will importantly allow the postal ballot papers to be printed earlier and allow for earlier issuing, helping to ensure that voters receive these in time to vote and return them before the deadline.

Poll cards

5.7 Under the combined rules it will be possible for the poll cards for each election to be combined. This means electors will receive one poll card instead of two with all the information they require. This will reduce costs and allow ease of use for electors.

Ballot Papers and Ballot boxes

5.8 There are a number of changes to the rules made in relation to ballot papers. Different colour ballot papers will be used for each election. The rules will also be amended to provide that the large version of the ballot paper that is required to be displayed in polling stations for each election must be the same colour as that being used for the election to which it relates. Finally, these Regulations allow for the Chief Electoral Officer to decide to use the same ballot boxes for both polls and for the separation of ballot papers before the counting of votes relating to both elections begins.

Marked register and combination of lists

5.9 Each set of rules provides for various lists at polling stations, including the register of electors which polling station staff mark to show an elector has voted, which becomes the marked register. Other lists are the lists of proxies, lists of votes marked by the presiding officer, lists of companions assisting a voter with disabilities and the lists of tendered votes. All of these lists are marked by polling station staff in accordance with the election rules. The Regulations allow these lists to be combined for the Assembly and local elections where the Chief Electoral Officer decides to do so, and the Regulations set out how the lists should be marked.

Combination of Forms

5.10 There are various forms under both sets of election rules that are required to be used or displayed in polling stations at the polling station. The Regulations allow the Chief Electoral Officer to combine these and have joint instructions in polling booths to guide voters on how to vote. The Regulations also amend the forms of the declaration of identity that postal voters are required to complete in order to verify their identity for both elections.

Changes to the election counts

5.11 As noted above, it will not be possible to conduct both counts simultaneously and therefore, this instrument will modify the Local Election Rules to provide that the local election count shall begin on the fourth day after the election rather than the day after the election. This will allow the Assembly count to take place from the day after the poll, and for local election ballot papers to be moved to count centres before the local election count begins. The Regulations also provide for all of the ballot boxes used for the elections to be opened, for the Assembly and local ballot papers to be separated and for verification of the ballot papers for both sets of elections to take place, before the Assembly count begins. This will be required even if separate ballot boxes are used for the elections, as it possible that some ballot papers may inadvertently be placed into the wrong ballot box (the Regulations confirm that a ballot paper placed into the wrong ballot box is not invalid).

Postal ballot proceedings

5.12 The Chief Electoral Officer's intention is that voters who are registered to vote by post will receive their ballot paper and declaration of identity for each election separately (with the relevant papers and envelopes for each election all being of the

same colour but a different colour to those relating to the other election). However, it is recognised that some voters may return ballot papers and declarations of identity for one election in the envelope for the other election. The Regulations therefore allow the returning officer to open ballot paper envelopes where they suspect that that is the case and make provision about what the returning officer should do if they find ballot papers and declarations of identity relating to the other election (the principle being that any postal ballot paper will be counted if it is accompanied by a valid declaration of identity for that election).

Change to day councillors take and leave office

5.13 Due to the changes to the local election count set out at paragraph 5.11, it will not be possible for existing councillors to leave office and newly elected councillors to take office on the fourth day after the election. Therefore, this instrument will amend the date that councillors leave or take office to the seventh day after the election, to ensure the counts are completed and candidates have been returned, before existing councillors leave office or newly elected ones are required to take office.

Retention of elections documents

5.14 Usually, each council retains election documents relating to a local election after the election. This instrument provides that the Chief Electoral Officer shall retain most of these documents. This change reflects the fact that some documents are likely to be in a combined form and also that documents relating to a poll that has been taken with another may need to be retained by the same person.

What was the previous policy, how is this different?

5.15 As combined Assembly and local elections happen so infrequently, there is no legislation in place that allows the rules for Assembly and local elections to be combined. Combination rules were last made for the combined Assembly and local elections in Northern Ireland in 2011 and applied only to those elections. These regulations make similar provisions to those that applied to the 2011 combined elections (although, significantly, these Regulations do not allow for postal ballots to be sent out to voters for both polls together).

6. Legislative and Legal Context

How has the law changed?

6.1 This instrument amends the law by making modifications of the Assembly Election Rules (which are the Parliamentary Election Rules set out in Schedule 1 to the Representation of the People Act 1983 as modified by article 3 of, and Schedule 1 to, the Northern Ireland Assembly (Elections) Order 2001), and the Local Election Rules in Schedule 5 to the Electoral Law (Northern Ireland) Act 1962, to allow certain electoral procedures to be combined.

6.2 This instrument also amends some of the forms that are prescribed by, and contained in, each appendix to the above rules (or in the Representation of the People (Northern Ireland) Regulations 2008) so that a new form is used instead for these elections. The forms in question are:

- The declaration of identity form prescribed by Rule 24(1)(c) of the Assembly Election Rules and Rule 21(1) of the Local Election Rules;
- The Guidance for Voters in Voting prescribed by Rule 29(4) of the Assembly Election Rules and Rule 26(4) of the Local Election Rules. This form is also

combined with the form that must be displayed in each compartment of polling stations as set out in the Appendix to the Assembly Election Rules;

- The certificate of employment required by Rule 32(3) of the Assembly Election Rules and Rule 29(3) of the Local Election Rules; and
- The declarations by a companion assisting voters with disabilities as required by Rule 39(5)(a) of the Assembly Election Rules and Rule 36(5)(a) of the Local Election Rules.

6.3 The amendments made by this instrument will come into force on the day after the day that they are made. Early commencement is considered justified because the amendments need to be in force well in advance of the Northern Ireland elections in May 2027. Early commencement will ensure those who are responsible for administering, and participating in (including candidates) the elections will have as much notice as possible as to the change in the rules that will apply to them.

Why was this approach taken to change the law?

6.4 The approach taken in these Regulations in considered appropriate given that they only apply to these elections and not more generally.

7. Consultation

Summary of consultation outcome and methodology

7.1 In accordance with the Secretary of State's statutory duty to consult the Electoral Commission under section 7 of the Political Parties, Elections and Referendums Act 2000, the Electoral Commission was consulted during the preparation of this draft instrument and confirmed that it is supportive of these measures. The Northern Ireland Office also worked closely with the Chief Electoral Officer, the administrator responsible for delivering these elections, during the preparation of the instrument.

8. Applicable Guidance

8.1 There is no guidance accompanying these regulations.

Part Two: Impact and the Better Regulation Framework

9. Impact Assessment

9.1 A full Impact Assessment has not been prepared for this instrument because no, or no significant impact on the private, voluntary or public sector is foreseen.

Impact on businesses, charities and voluntary bodies

9.2 There is no, or no significant, impact on business, charities or voluntary bodies because the regulations do not apply to businesses, charities or voluntary bodies.

9.3 The legislation does not impact small or micro businesses.

9.4 There is no, or no significant, impact on the public sector because this is purely a technical change to improve the accessibility of elections in Northern Ireland.

10. Monitoring and review

What is the approach to monitoring and reviewing this legislation?

10.1 While no provision is made for review (reflecting the fact that these Regulations are intended to apply only in respect of the 2027 combined elections), the Northern

Ireland Office will work with the Electoral Commission and the Chief Electoral Officer for Northern Ireland to learn any lessons from the polls that may be relevant to future elections.

Part Three: Statements and Matters of Particular Interest to Parliament

11. Matters of special interest to Parliament

11.1 None.

12. European Convention on Human Rights

12.1 Sir Chris Bryant MP, the Secretary of State for Northern Ireland, has made the following statement regarding Human Rights:

"In my view the provisions of the Northern Ireland Elections 2027 (Combined Elections) Regulations [2026] are compatible with the Convention rights."

13. The Relevant European Union Acts

13.1 This instrument is not made under the European Union (Withdrawal) Act 2018, the European Union (Future Relationship) Act 2020 or the Retained EU Law (Revocation and Reform) Act 2023 ("relevant European Union Acts").