EXPLANATORY MEMORANDUM TO

THE POLITICAL PARTIES, ELECTIONS AND REFERENDUMS ACT 2000 (NORTHERN IRELAND POLITICAL PARTIES) 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.

2. Description

2.1 The Political Parties, Elections and Referendums Act 2000 (Northern Ireland Political Parties) Order makes provision for Northern Ireland parties to continue to be able to accept donations from Irish individuals and bodies from 1 November 2007 onwards when Northern Ireland will become subject to most of the rules governing the regulation of donations in Great Britain set out in the Political Parties, Elections and Referendums Act 2000 ("PPERA").

2.2 The Order also makes provision for donation reports from Northern Ireland parties to be held confidentially by the Electoral Commission unless the report relates to a donation which is impermissible or from an unidentifiable source, in which case the Commission may publish details.

2.3 The order is made under the Northern Ireland (Miscellaneous Provisions) Act 2006. Under the provisions of that Act, the arrangements by which party donation reports are held confidentially by the Electoral Commission will expire on 31 October 2010 (or later, if extended by Order of the Secretary of State made under the affirmative procedure)

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

3.1 None

4. Legislative Background

4.1 The Political Parties, Elections and Referendums Act 2000 (Disapplication of Part IV for Northern Ireland Parties, etc) Order 2001 (and the subsequent Order extending it in 2005) exempted Northern Ireland parties from the requirement to comply with Part 4 of the Political Parties, Elections and Referendums Act 2000 concerning donation controls. It was brought into force because of the special circumstances that exist in Northern Ireland both as regards the continuing fear of intimidation of donors and Ireland's special position in relation to the political life of Northern Ireland as set out in the Belfast Agreement.

4.2 Part 3 of the Northern Ireland (Miscellaneous Provisions) Act 2006 ("2006 Act") makes provision for Northern Ireland parties and regulated donees to continue to be

exempt from Part 4 of the Political Parties, Elections and Referendums Act 2000 ('the 2000 Act') until the end of October 2007. After that they will be required to comply with most of Part 4. However, initially, during the prescribed period (1 November to 31 October 2010) they need not make their donation reports public; instead the Electoral Commission will check reports privately for compliance. In addition to this, they will continue to be able to accept donations from Irish donors.

4.3 The 2006 Act gives the Secretary of State the power to prescribe the conditions which an Irish citizen must meet in order to be able to donate to a Northern Ireland party; the categories of Irish body which will be able to donate and the conditions that they must meet in order to be able to do so; and the steps which the Electoral Commission must take for the purpose of verifying the information contained in Northern Ireland parties' donation reports. This Order prescribes these details.

5. Extent

5.1 This instrument extends to the whole of the United Kingdom.

6. European Convention on Human Rights

6.1 The Minister of State for the Northern Ireland Office, Maria Eagle, has made the following statement regarding Human Rights:

"In my view the provisions of the Political Parties, Elections and Referendums Act 2000 (Northern Ireland Political Parties) Order 2007 are compatible with Convention rights."

7. Policy background

7.1 The Government indicated in Spring 2005 that it intended to explore ways of increasing the degree of transparency in the system for the regulation of donations in Northern Ireland to apply after the end of its exemption from Part 4 of the 2000 Act. A consultation exercise on the issue of political donations was launched in August 2005; and the Government's response to the consultation, which took account of the responses received during the consultation exercise, was published on 24 January 2006. The 2006 Act gave effect to the measures outlined in this response, which sought to balance the need for greater transparency and accountability in the regulation of donations in Northern Ireland against the fear of intimidation of donors; and to recognise the special place of Ireland in the political life of Northern Ireland.

7.2 During the passage of the 2006 Act, the Government made clear that only those Irish individuals and bodies who are eligible to donate to Irish political parties would be able to donate to Northern Ireland parties from 1 November 2007 onwards. In order to donate in Ireland, an individual has to be an Irish citizen. The Order therefore specifies that eligible Irish donors must be citizens who can provide one of three indicators of Irish citizenship. For a body to donate in Ireland, it must have an office on the island of Ireland from which one or more of its principal activities is directed. The Order specifies that this category of body is eligible to donate to a Northern Ireland party if it meets the condition of being able to provide specified information in support of the fact that it falls within this category. The nature of this information varies according to the body.

7.3 During debates on the 2006 Act, the Government also made clear that the secondary legislation would prescribe clearly and tightly the steps which the Electoral Commission would take in order to verify donation reports from Northern Ireland parties. The steps set out in the Order - which seek to balance a number of competing concerns including administrative burden and parity of treatment - reflect an approach which has been agreed with both the Electoral Commission and the Irish Government.

7.4 There is likely to be a very significant amount of political interest in this Order. This interest is likely to focus principally on the principle behind the Order (i.e. that Irish donations should continue to be permitted to Northern Ireland parties) and on the detail of the arrangements which the Order puts in place for testing the eligibility of donations.

8. Impact

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

9. Contact

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