Draft Order laid before Parliament under section 84(4) of the Northern Ireland Act 1998, for approval by resolution of each House of Parliament.

DRAFT STATUTORY INSTRUMENTS

2009 No.

NORTHERN IRELAND

The Postponement of Local Elections (Northern Ireland) Order 2009

Made - - - - 2008

Coming into force in accordance with Article 1(1)

At the Court at Buckingham Palace, the *** day of ***2009

Present,

The Queen's Most Excellent Majesty in Council

In accordance with section 7(3) of the Political Parties, Elections and Referendums Act 2000(**a**) the Electoral Commission has been consulted prior to making this Order.

A draft of this Order has been laid before Parliament under section 84(4) of the Northern Ireland Act 1998(**b**) and has been approved by a resolution of each House of Parliament.

Accordingly, Her Majesty, in exercise of the powers conferred on Her by section 84(1) and (3) of the Northern Ireland Act 1998, is pleased, by and with the advice of Her Privy Council, to order as follows:

Citation, commencement and interpretation

1.—(1) This Order may be cited as the Postponement of Local Elections (Northern Ireland) Order 2009 and shall come into force on the day after the day on which it is made.

(2) In this Order "the 1962 Act" means the Electoral Law Act (Northern Ireland) 1962(**c**).

(3) The Interpretation Act (Northern Ireland) 1954(**d**) applies to this paragraph and the following provisions of this Order as it applies to an Act of the Assembly.

Postponement of the next local election year in Northern Ireland

2.—(1) The next local election year in Northern Ireland is to be 2011 (and not 2009).

(**a**) 2000 c.41.
(**b**) 1998 c. 47; section 84 was amended by the Elections Act 2001 (c. 7).
(**c**) 1962 c. 14 (N.I.).
(**d**) 1954 c. 33 (N.I.).

(2) Accordingly in section 11(1) of the 1962 Act(**a**) (which provides for every fourth year from 1973 to be a local election year) for "the year 1973" there is substituted "the year 2011".

(3) Section 11(1A) of that section (which requires a local general election to be held on the first Thursday in May) shall not apply to the local general election to be held in 2011.

Transitional provisions: members of district councils in Northern Ireland

3.—(1) The term of office of an existing member of a district council shall continue until the fourth day after the election day in 2011.

(2) A casual vacancy in a district council occurring on or after 1st January 2009 but before the coming into force of this Order—

(a) is to be filled in accordance with section 11(4A) of the 1962 Act; and

(b) is to be treated for the purposes of section 11(5) of that Act as having occurred on the day on which this Order comes into force.

(3) The term of office of a person elected or chosen after the coming into force of this Order but before 1st January 2011 to fill a casual vacancy in a district council expires on the fourth day after the election day in 2011 (and it is immaterial for this purpose when the vacancy arose).

(4) In relation to an existing member of a district council or a person mentioned in paragraph (3), the period mentioned in section 28(7) of the 1962 Act(**b**) (deemed continuation in force for qualification purposes of register in force when a person became a member of a district council) expires on the election day in 2011.

(5) In this article—

(a) "casual vacancy" and "election day" have the same meaning as in section 11 of the 1962 Act; and

(b) "existing member", in relation to a district council, means a person who is a member of that council at the coming into force of this Order.

Amendment of the Drainage (Northern Ireland) Order 1973

4.—(1) In this article "Schedule 1" means Schedule 1 to the Drainage (Northern Ireland) Order 1973(**c**) (constitution and proceedings of the Drainage Council).

(2) In paragraph 3(1) of Schedule 1, for "the year 1973" substitute "the year 2011".

(3) The term of office of a member of the Drainage Council appointed under paragraph 3 or 5 of Schedule 1 after the local general election in 2005 expires on the day preceding that from which the next subsequent appointments made under paragraph 3 of that Schedule after the local general election in 2011 are effective.

Name
Clerk of the Privy Council

(**a**) 1962 c. 14 (N.I.). Section 11(1) was amended by S.I. 1972/1998 (N.I. 21); section 11(1A) was inserted by S.I. 1985/454 and amended by S.I. 2005/862 and S.I. 1992/810 (N.I. 6); section 11(3) was amended by S.I. 1985/454; subsections (4A) to (4B) were inserted by S.I. 1985/1208 (N.I. 15) and amended by the Elected Authorities (Northern Ireland) Act 1989 (c. 3); and section 11(5) was amended by S.I. 1992/810 (N.I. 6).

(**b**) Subsections (1) to (6) of section 28 were repealed by the Elected Authorities (Northern Ireland) Act 1989 (c. 3) and subsection (7) was amended by the Electoral Law Act (Northern Ireland) 1971 (c. 4) and the Electoral Law (Northern Ireland) Order 1972 (S.I. 1972/1264) (N.I. 13).

(**c**) S.I. 1973/69 (N.I. 1). There are amendments not relevant to this Order.

EXPLANATORY NOTE

(This note is not part of the Order)

Under section 11 of the Electoral Law Act (Northern Ireland) 1962 ("the 1962 Act") local general elections are held on a four year cycle commencing 1973. Article 2 of this Order postpones the elections due to be held in 2009 until 2011 and amends the 1962 Act so that the four year cycle commences (again) in 2011. Local general elections are normally, by virtue of section 11(1A) of the 1962 Act held on the first Thursday in May in the election year. Article 2 also disapplies this provision. Instead the date of the local elections in 2011 will need to be set by further order.

Article 3(1) extends the term of office of existing members of district councils until the fourth day after the day of the election in 2011. Similarly, under Article 3(3) the term of office of any members elected to fill a vacancy after this Order comes into force (regardless of when that vacancy arose) will expire on the same day. Article 3(2) enables vacancies that have arisen on or after 1st January 2009 but before this Order comes into force to be filled. Normally vacancies that arise on or after 1st January in a local election year remain unfilled until the next local general election. Article 3(4) ensures that the register of electors in force at the time a member was elected continues to be in force until the day of the election in 2011 for the purpose of determining whether that member continues to qualify, as a local elector, to be a member of the district council.

Article 4 makes consequential amendment to the Drainage (Northern Ireland) Order 1973. Members of the Drainage Council are also appointed on a four year cycle commencing 1973 and the appointments themselves take place as soon as possible after a local general election. No appointments will be made in 2009 and the current appointments will continue until 2011. Appointments will then be made in 2011 and every fourth year thereafter.

A full impact assessment has not been produced for this instrument as no impact on the private or voluntary sectors is foreseen.

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