**EXPLANATORY MEMORANDUM TO**

**THE REPRESENTATION OF THE PEOPLE (NORTHERN IRELAND) (AMENDMENT) REGULATIONS 2014**

**2014 No. [XXXX]**

**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 These Regulations amend the Representation of the People (Northern Ireland) Regulations 2008 to implement a scheme of anonymous registration in Northern Ireland for people for whom the publication of their name and address would pose a threat to their safety. Changes to electoral registration relate to parliamentary, local and Northern Ireland Assembly elections. Other changes relate to parliamentary elections only.

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

3.1 None.

## 4. Legislative Context

4.1 Anonymous registration was introduced in Great Britain by section 10 of, and Schedule 1 to, the Electoral Administration Act 2006, which made amendments to provisions of the Representation of the People Act 1983 and related Acts. Those provisions have since been amended by the Electoral Registration and Administration Act 2013. More detailed provision was made for Great Britain in secondary legislation by amendment of the Representation of the People (England and Wales) Regulations 2001 and the Representation of the People (Scotland) Regulations 2001.

4.2 Anonymous registration was not extended to Northern Ireland in 2006. Instead, section 1 of the Northern Ireland (Miscellaneous Provisions) Act 2006 gave the Secretary of State the power to make equivalent provision for Northern Ireland by Order in Council under section 84 of the Northern Ireland Act 1998.

4.3 In February 2008, the Northern Ireland Office undertook a public consultation on proposals to address concerns held by those whose personal safety might be compromised if their details were publicly accessible on the full electoral register (*Anonymous Registration: Protecting Voters at Risk in Northern Ireland*). A consultation response was issued in February 2009. In September 2013, the Government undertook a further public consultation (*Anonymous registration: Protecting Voters at Risk in Northern Ireland*),

which included draft legislation. A consultation response was issued in February 2014.

4.4 The Secretary of State's power to make provision for anonymous registration in Northern Ireland was used for the first time to make the Anonymous Registration (Northern Ireland) Order 2014 (S.I. 2014/1116), which extended to Northern Ireland many of the anonymous registration provisions made in primary legislation for England, Wales and Scotland.

4.5 This instrument is linked to the Anonymous Registration (Northern Ireland) Order 2014 (S.I. 2014/1116), made on 28 April 2014, and the following other statutory instruments that were laid alongside these Regulations:

- The European Parliamentary Elections (Anonymous Registration) (Northern Ireland) Regulations 2014
- The Northern Ireland Assembly (Elections) (Amendment) Order 2014
- The Anonymous Registration (Northern Ireland) (No. 2) Order 2014
- The Donations to Candidates (Anonymous Registration) Regulations 2014

4.6 The Political Donations and Regulated Transactions (Anonymous Electors) Regulations 2014 are also linked but are subject to the negative resolution procedure. The Electoral Administration Act 2006 (Commencement No. 2) (Northern Ireland) Order 2014 is also linked but is not subject to parliamentary procedure. Together, these instruments implement the system of anonymous registration in Northern Ireland. Three of the linked instruments were published in draft, and others were described, in the Government consultation in September 2013.

## 5. Territorial Extent and Application

5.1 This instrument extends to Northern Ireland only.

## 6. European Convention on Human Rights

6.1 Andrew Robathan, Minister of State for the Northern Ireland Office, has made the following statement regarding Human Rights:

"In my view the provisions of the Representation of the People (Northern Ireland) (Amendment) Regulations 2014 are compatible with the Convention rights".

## 7. Policy background

7.1 The full electoral register lists the name and address of everyone who is entitled to vote. The main use of the full register is for elections and referendums, although it can be used for other purposes such as the prevention and detection of crime, eligibility for jury service, and for checking identity when applying for credit. It may also be seen, under supervision, by any member of the public (and partially copied by means of handwritten notes).

7.2 Anonymous registration allows a person who is at risk to register to vote without the risk of their name and address being available to someone who might be trying to trace their whereabouts. It does this by replacing their name and address on the register with a number. The number can then be cross-referenced against a list of voters held securely by the registration officer.

7.3 Anonymous registration was not extended to Northern Ireland when it was introduced in Great Britain because there were a number of differences in Northern Ireland which needed to be taken into account. These included differences in electoral law, for example the additional checks on identity used in Northern Ireland to prevent electoral fraud.

7.4 These Regulations make amendments to provisions on electoral registration and parliamentary elections in Northern Ireland to implement anonymous registration. They specify how applications for anonymous registration should be made and determined, the relevant court orders and injunctions that can be used to support an application and the individuals who are able to provide attestations in support of applications for anonymous registration. They set out the duties of the Chief Electoral Officer and his staff in relation to records of anonymous entries and prescribe a certificate of anonymous registration, which can be used by a person to show that they have been registered anonymously, for example when donating to a political party or applying for credit.

7.5 The majority of changes made in the Regulations are consistent with those made for anonymous registration in Great Britain. Amendments which differ from those in Great Britain are as follows:

a. Regulation 10 inserts new regulation 38A, which sets out what must be included in an application for an anonymous entry. In Northern Ireland, an application must be accompanied by an application for an absent vote. If a person wishes to vote by proxy instead, the application to vote by proxy must include an application by the proxy to vote by post. This is because persons with an anonymous entry and their proxies will only be permitted to vote by post and not in person.

b. Regulation 10 inserts new regulation 38E, which prescribes the manner in which the Chief Electoral Officer can determine that a person with an anonymous entry is no longer at risk. The Chief Electoral Officer may at any time conduct a review of entitlement to an anonymous entry. The power of review, which is not available in Great Britain, is intended to ensure that persons in Northern Ireland will not retain an anonymous entry for the maximum five year period if the safety test is no longer satisfied.

c. Regulations 22 to 24 and 27 to 29 prescribe the manner in which tendered postal ballot papers are to be dealt with by the Chief Electoral Officer. Tendered postal ballot papers are necessary in Northern Ireland because,

unlike electors in Great Britain, anonymous electors will be unable to submit a tendered ballot paper at polling stations.

7.6. The Regulations also introduce an official postal poll card and proxy postal poll card for use in Northern Ireland. Postal poll cards were introduced in Great Britain in 2006.

## 8. Consultation outcome

8.1 Changes made to policy on anonymous registration following the public consultation in 2008-9 include:

a. In response to concerns raised by the Police Service of Northern Ireland about the additional workload that might be faced by the police, the level of seniority of police officers able to attest applications was reduced (a police officer of or above the rank of superintendent may now attest applications). This is the same as the current position in Great Britain.

b. The length of entitlement to anonymous registration was extended from one year to a maximum of five years, in response to concerns raised by a number of organisations about the compatibility of the one-year entitlement with the continuous registration system.

8.2 No changes have been made in response to comments following the publication of draft legislation in September 2013. However, changes will be made to guidance in response to concerns raised by the Electoral Commission about the status of Irish court orders similar to those listed in new regulation 38D, inserted by Regulation 10.

## 9. Guidance

9.1 The Northern Ireland Office is working with the Chief Electoral Officer for Northern Ireland and other agencies directly affected to prepare guidance for persons who may be eligible to apply for an anonymous entry.

## 10. Impact

10.1 There is no impact on business, charities or voluntary bodies. An impact assessment has not been prepared for this instrument.

## 11. Regulating small business

11.1 The legislation does not apply to small business.

## 12. Monitoring & review

12.1 The Northern Ireland Office will keep the system of anonymous registration in Northern Ireland under review. The Electoral Commission and the Chief Electoral Officer for Northern Ireland also have a statutory duty to report on electoral registration.

## 13. Contact

13.1 Karen McNeill, Senior Elections Policy Officer at the Northern Ireland Office Tel: 020 7210 6545 or email: karen.mcneill@nio.x.gsi.gov.uk can answer any queries regarding the instrument.

**Northern Ireland Office**
*June 2014*