EXPLANATORY MEMORANDUM TO

THE FLAGS (NORTHERN IRELAND) (AMENDMENT) REGULATIONS 2022

2022 No. 95

1. Introduction

1.1 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 The purpose of these Regulations is to amend the Flags Regulations (Northern Ireland) 2000 (S.R. 2000/347) ("the 2000 Regulations"), which make provision for when flags are to be flown from Government buildings in Northern Ireland. These Regulations amend the 2000 Regulations to remove from the list of designated days the birthday of His Royal Highness, The Duke of Edinburgh and Her Majesty's wedding day; provide that the Union flag need not be flown on the designated days related to a member of the Royal Family who has died; and provide for the Union flag to be flown following the accession of a new monarch in order to mark their proclamation.

3. Matters of special interest to Parliament

Matters of special interest to the Joint Committee on Statutory Instruments

3.1 None.

4. Extent and Territorial Application

4.1 The territorial extent of this instrument is Northern Ireland.

4.2 The territorial application of this instrument is Northern Ireland.

5. European Convention on Human Rights

5.1 Rt Hon Conor Burns MP, Minister of State at the Northern Ireland Office, has made the following statement regarding Human Rights:

"In my view the provisions of the Flags (Northern Ireland) (Amendment) Regulations 2022 are compatible with the Convention rights."

6. Legislative Context

6.1 The 2000 Order gives the Secretary of State for Northern Ireland the power to make regulations regulating the flying of flags at Northern Ireland Government buildings, defined as a 'building wholly or mainly occupied by members of the Northern Ireland Civil Service'. Where the Secretary of State proposes to make Regulations under the 2000 Order, in accordance with Article 4 of the 2000 Order, a draft of the proposed regulations was referred to the Northern Ireland Assembly on 5th November 2021 and the Assembly reported its views on the proposed regulations to the Secretary of State on 9th November 2021.

6.2 The Secretary of State and the Minister of State then considered the Assembly's report with regard to the Belfast Agreement, before laying the Regulations for

affirmative approval by both Houses of Parliament. A copy of the Assembly's report has also been made available with the Regulations and this explanatory memorandum.

6.3 The 2000 Regulations regulate the flying of flags at Northern Ireland Government buildings: they define the circumstances in which flags should be flown, and also specify certain buildings at which the Union flag must fly on the designated days listed in Part 2 of the Schedule to the Regulations. These specified buildings were chosen as they were the headquarter buildings of Northern Ireland Government departments.

7. Policy background

What is being done and why?

7.1 Following the death of His Royal Highness, The Duke of Edinburgh, these Regulations update the 2000 Regulations to remove his birthday (10th June), and Her Majesty's Wedding Day (20th November), as designated days; and provide that, following the death of a member of the Royal Family, the Union flag need not be flown on the designated days related that member. Making this change will mean Northern Ireland Government buildings and courthouses will observe the same designated days as are observed in the rest of the United Kingdom.

7.2 The Regulations provide for a further amendment which will provide for the Union flag to fly on the Proclamation of a new monarch. The Flags Regulations do not currently make provision for flying the Union flag in this manner – i.e. the Regulations make provision for half-masting (in the event of the death of a member of the Royal Family or a serving or former Prime Minister) but not for subsequent full-masting to mark the Proclamation of the new monarch. The 2000 Regulations as amended will provide that, following the death of the monarch, the Union flag may be flown 24 hours a day at half-mast except for when the monarch is proclaimed, when the Union flag should be raised to full mast. The times and dates will be notified in the Belfast Gazette.

8. European Union Withdrawal and Future Relationship

8.1 This instrument does not relate to withdrawal from the European Union / trigger the statement requirements under the European Union (Withdrawal) Act

9. Consolidation

9.1 This instrument does not consolidate any current legislation.

10. Consultation outcome

10.1 The Secretary of State for Northern Ireland referred the draft regulations to the Northern Ireland Assembly, as required by Article 4 of the 2000 Order (see paragraph 6.1 above). The Northern Ireland Assembly has reported its views on the draft regulations, and a copy of this report is attached to this explanatory memorandum.

11. Guidance

11.1 Not relevant.

12. Impact

12.1 There is no, or no significant, impact on business, charities or voluntary bodies.

12.2 There is no, or no significant, impact on the public sector.

12.3 A full Impact Assessment has not been prepared for this instrument because it has no impact on businesses or charities.

13. Regulating small business

13.1 The legislation does not apply to activities that are undertaken by small businesses.

14. Monitoring & review

14.1 Monitoring of this legislation is not considered necessary.

14.2 The instrument does not include a statutory review clause.

15. Contact

15.1 Julie Miller at the Northern Ireland Office Telephone: 07747564946 or email: Julie.Miller@nio.gov.uk can be contacted with any queries regarding the instrument.

15.2 Holly Clark, Deputy Director for the Constitution and Rights Policy Group at the Northern Ireland Office can confirm that this Explanatory Memorandum meets the required standard.

15.3 Rt Hon Conor Burns MP, Minister of State at the Northern Ireland Office can confirm that this Explanatory Memorandum meets the required standard.