STATUTORY INSTRUMENTS

1985 No. 1268

NORTHERN IRELAND

The Northern Ireland Assembly Elections (Amendment) Order 1985

Made - - -	*8th August* 1985
Laid before Parliament	*16th August* 1985
Coming into Operation	*17th September* 1985

In exercise of the powers conferred upon me by sections 2(5) and 5(2) of the Northern Ireland Assembly Act 1973(**a**), I hereby make the following Order:–

1.—(1) This Order may be cited as the Northern Ireland Assembly Elections (Amendment) Order 1985 and shall come into operation on 17th September 1985.

(2) This Order extends only to Northern Ireland.

2. In this Order "the principal Order" means the Northern Ireland Assembly Elections Order 1982(**b**).

3. After Article 7 (absent voting) of the principal Order there shall be inserted the following Article:–

"Offences relating to specified documents

7A.—(1) A person commits an offence if, on the day of or the day next preceding the poll for an Assembly election, he has possession of a document to which this Article applies, with the intention of committing or of enabling another person to commit the offence of personation at the election.

(2) This Article applies to–

(a) a document which is not, but purports to be, a specified document within the meaning of rule 36 of the Assembly elections rules in Schedule 2 to this Order, and

(b) a specified document within the meaning of that rule which either falsely bears the name of the person in possession or does not bear that name.

(**a**) 1973 c.17; section 2(5) was extended by section 29 of the Northern Ireland Constitution Act 1973 (c.36) and the powers in it were referred to in section 5(2) of the Elections (Northern Ireland) Act 1985 (c.2).

(**b**) S.I. 1982/1135.

(3) If a constable has reasonable grounds for suspecting that a person has possession of a document in contravention of paragraph (1) above the constable may–

(a) search that person, and detain him for the purpose of searching him;

(b) search any vehicle in which the constable suspects that the document may be found, and for that purpose require the person in control of the vehicle to stop it;

(c) seize and retain, for the purpose of proceedings for an offence under paragraph (1) above, any document found in the course of the search if there are reasonable grounds for suspecting that it is a document to which this Article applies.

(4) If a resident magistrate is satisfied by complaint on oath that there are reasonable grounds for suspecting that a person has possession on any premises of a document in contravention of paragraph (1) above, he may grant a warrant authorising any constable–

(a) to enter, if need be by force, the premises named in the warrant,

(b) to search the premises and any person found there, and

(c) to seize and retain, for the purpose of proceedings for an offence under paragraph (1) above, any document found in the course of the search if there are reasonable grounds for suspecting that it is a document to which this Article applies.

(5) A person commits an offence if he–

(a) intentionally obstructs a constable in the exercise of his powers under this Article, or

(b) conceals from a constable acting in the exercise of those powers any document to which this Article applies.

(6) A constable may arrest without warrant a person who has committed, or whom the constable has reasonable grounds for suspecting to have committed, an offence under paragraph (1) or (5) above if–

(a) he has reasonable grounds for believing that that person will abscond unless arrested,

(b) the name and address of that person are unknown to, and cannot be ascertained by, him, or

(c) he is not satisfied that a name and address furnished by that person as his name and address are true.

(7) A person is guilty of a corrupt practice if he commits or aids, abets, counsels or procures the commission of an offence under paragraph (1) above; and the provisions of the Act of 1962, as applied by this Order, relating to corrupt practices shall apply in such a case, but reading for the words "one year" in section 108(2) (penalty on indictment) the words "two years".

(8) A person guilty of an offence under paragraph (5) above shall be liable on summary conviction to a fine not exceeding level 5 on the standard scale (as provided by Article 5 of the Fines and Penalties (Northern Ireland) Order 1984) or to imprisonment for a term not exceeding 6 months or to both.

(9) A prosecution shall not be instituted in respect of an offence under paragraph (1) above except by or with the consent of the Director of Public Prosecutions for Northern Ireland.

(10) In this Article–

"premises" includes any place and, in particular, includes any movable structure, and

"vehicle" means a vehicle intended or adapted for use on land (however propelled, and including a caravan or other vehicle intended or adapted to be drawn).".

4. In Schedule 1 (Application and modifications of provisions of the Act of 1962) to the principal Order, in the modifications in column 2 of that Schedule of Schedule 9 (Electoral offences) to the Electoral Law Act (Northern Ireland) 1962 (**a**), there shall be added the following modification:–

"After paragraph 12A (as inserted by Article 14(6) of the Local Elections (Northern Ireland) Order 1985) there shall be inserted the following paragraph:–

'12B–(1) For the purposes of the offences in sub-paragraph *(a)* of paragraph 11 (voting offences as elector at Assembly elections) and sub-paragraphs *(a)* and *(b)* of paragraph 12(2) (voting offences as proxy at Assembly elections) a person who has applied for a ballot paper for the purpose of voting in person, or who has marked, whether validly or not, and returned a ballot paper issued for the purpose of voting by post, shall be deemed to have voted.

(2) Where a person is alleged to have committed an offence under the provisions referred to in sub-paragraph (1) by voting on a second or subsequent occasion, he shall not be deemed by virtue of that sub-paragraph to have voted by applying on a previous occasion for a ballot paper for the purpose of voting in person unless he then marked a tendered ballot paper under rule 39(1C) of the Assembly elections rules.'.".

5. The rules in Schedule 2 (Assembly elections rules) to the principal Order shall have effect subject to the amendments in Schedule 1 to this Order.

6. In Schedule 3 (Forms) to the principal Order, for the form of the official poll card (form 5), there shall be substituted the form set out in Schedule 2 to this Order.

Douglas Hurd;
One of Her Majesty's Principal Secretaries of State.

Northern Ireland Office.
8th August 1985.

(**a**) 1962 c.14 (N.I.).

Article 5. SCHEDULE 1

AMENDMENTS TO THE RULES IN SCHEDULE 2 TO THE NORTHERN IRELAND ASSEMBLY ELECTIONS ORDER 1982

1.—(1) In the Timetable in rule 1(2) (proceedings at a general election held on a day appointed by Order in Council under section 27(7) of the Constitution Act), in the entry relating to polling, for "8 a.m. and 9 p.m." there shall be substituted "7 a.m. and 10 p.m.".

(2) In the Timetable in rule 1(3) (proceedings at any other election including a by-election) in the entry relating to polling, for "8 a.m. and 9 p.m." there shall be substituted "7 a.m. and 10 p.m.".

2. At the end of rule 25(3) (clerks may do what presiding officer may do, with exceptions) there shall be inserted "or refuse to deliver a ballot paper under paragraph (1C) of rule 36 (including that paragraph as applied by rule 37, 38 or 39)".

3.—(1) In rule 36(1) (ballot paper to be delivered to voter on application), for "A" there shall be substituted "Subject to paragraphs (1A) to (1F) below, a".

(2) The following shall be inserted after rule 36(1):–

"(1A) A ballot paper shall not be delivered to a voter unless he has produced a specified document to the presiding officer or clerk.

(1B) Where a voter produces a specified document, the presiding officer or clerk to whom it is produced shall deliver a ballot paper to the voter unless the officer or clerk decides that the document raises a reasonable doubt as to whether the voter is the elector or proxy he represents himself to be.

(1C) Where a voter produces a specified document to a presiding officer and he so decides, he shall refuse to deliver a ballot paper to the voter.

(1D) Where a voter produces a specified document to a clerk and he so decides, he shall refer the matter and produce the document to the presiding officer who shall proceed as if the document had been produced to him in the first place.

(1E) For the purposes of this rule a specified document is one which for the time being falls within the following list:–

(a) a current licence to drive a motor vehicle granted under Part III of the Road Traffic Act 1972 (excluding a provisional licence), or under Article 12 of the Road Traffic (Northern Ireland) Order 1981 or any corresponding enactment for the time being in force;

(b) a current passport issued by the Government of the United Kingdom or by the Government of the Republic of Ireland;

(c) a current book for the payment of allowances, benefits or pensions issued by the Department of Health and Social Services for Northern Ireland;

(d) a medical card issued by the Northern Ireland Central Services Agency for Health and Social Services;

(e) a certified copy, or extract, of an entry of marriage issued by a Registrar General, where the voter producing the copy or extract is a woman married within the period of two years ending with the day of the poll concerned.

In sub-paragraph *(e)* above "a Registrar General" means the Registrar General for England and Wales, the Registrar General of Births, Deaths and Marriages for Scotland or the Registrar General for Northern Ireland.

(1F) References in this rule to producing a document are to producing it for inspection.".

4.—(1) In rule 37(1) (incapacitated voter's vote to be marked on ballot paper on application) for "The" there shall be substituted "Subject to paragraph (1A) below, the".

(2) The following shall be inserted after rule 37(1):–

"(1A) Paragraphs (1A) to (1F) of rule 36 shall apply in the case of a voter who applies under paragraph (1) above as they apply in the case of a voter who applies under rule 36(1), but reading references to delivering a ballot paper to a voter as references to causing a voter's vote to be marked on a ballot paper.".

5.—(1) In rule 38(2) (blind voter to be allowed assistance of companion on application) for "If" there shall be substituted "Subject to paragraph (2A) below, if".

(2) The following shall be inserted after rule 38(2):–

"(2A) Paragraphs (1A) to (1F) of rule 36 shall apply in the case of a voter who applies under paragraph (1) above as they apply in the case of a voter who applies under rule 36(1), but reading references to delivering a ballot paper to a voter as references to granting a voter's application.".

6. The following shall be inserted after rule 39(1) (person entitled to mark tendered ballot paper after another has voted):–

"(1A) Paragraphs (1A) to (1F) of rule 36 shall apply in the case of a person who seeks to mark a tendered ballot paper under paragraph (1) above as they apply in the case of a voter who applies for a ballot paper under rule 36(1).

(1B) Paragraph (1C) below applies where a presiding officer refuses to deliver a ballot paper to a person under paragraph (1C) of rule 36 (including that paragraph as applied by rule 37 or 38 or this rule).

(1C) The person shall, on satisfactorily answering the questions permitted by law to be asked at the poll, nevertheless be entitled, subject to the following provisions of this rule, to mark a ballot paper (in these rules referred to as "a tendered ballot paper") in the same manner as any other voter.".

7. The following shall be inserted after rule 39(4):–

"(5) A person who marks a tendered ballot paper under paragraph (1C) above shall sign the paper, unless it was marked after an application was refused under rule 37 or 38.

(6) A paper which is required to be signed under paragraph (5) above and is not so signed shall be void.".

8. After rule 39 there shall be inserted–

"Refusal to deliver ballot paper

39A.—(1) This rule applies where a presiding officer refuses to deliver a ballot paper under paragraph (1C) of rule 36 (including that paragraph as applied by rule 37, 38 or 39).

(2) The refusal shall be subject to review on an election petition but, subject to that, shall be final and shall not be questioned in any proceeding whatsoever.".

Article 6.

SCHEDULE 2

FORM OF OFFICIAL POLL CARD TO BE SUBSTITUTED FOR FORM 5 IN SCHEDULE 3 TO THE NORTHERN IRELAND ASSEMBLY ELECTIONS ORDER 1982

5. *Official poll card* (Assembly elections rule 27).

Front of card

Northern Ireland Assembly Constituency of	OFFICIAL POLL CARD Name .....
Polling day ..... Polling hours 7 a.m. to 10 p.m. Your polling station is at	Number on register ..... Address ....
VOTING INSTRUCTIONS Mark your vote secretly by placing in the square provided on the left-hand side of the paper the figure "1" opposite the name of the candidate for whom you wish to vote and, if you wish, the figure "2" opposite the name of the candidate of your second choice and so on in the order of your preference. IMPORTANT—PLEASE READ NOTES ON BACK OF THIS CARD	

Back of card

THE LAW PREVENTS YOU BEING GIVEN A BALLOT PAPER UNLESS YOU PRODUCE ONE OF THE FOLLOWING DOCUMENTS:—

(a) a *current* Northern Ireland or Great Britain full driving licence (but NOT a provisional licence);

(b) a *current* United Kingdom or Republic of Ireland passport (including a U.K. Visitor's passport);

(c) a *current* book for the payment of allowances, benefits or pensions issued by the Dept. of Health and Social Services for Northern Ireland;

(d) a medical card issued by the Northern Ireland Central Services Agency;

(e) in the case ONLY of a woman married within 2 years of polling day, a certified copy or extract of an entry of marriage issued by a Registrar General in the U.K.

Issued by the Returning Officer

EXPLANATORY NOTE

(This Note is not part of the Order.)

This Order amends the Northern Ireland Assembly Elections Order 1982 ("the 1982 Order").

Article 3 of this Order inserts a new provision (Article 7A) in the 1982 Order with respect to the possession of certain documents which corresponds to the provision made by section 3 of the Elections (Northern Ireland) Act 1985 in respect of parliamentary elections. Article 7A, as inserted, creates an offence in respect of the possession of the documents referred to in paragraph (2) of the Article on the day of the poll or the preceding day with the intention of committing the offence of personation. It confers powers on constables in connection with the offence; and creates a related offence of obstruction or concealment punishable by a maximum of six months imprisonment or a fine not exceeding level 5 on the standard scale (currently £2,000).

Article 5 of, and Schedule 1 to, this Order amend the Assembly elections rules in Schedule 2 to the 1982 Order to include provisions about the documents a voter must produce at a polling station in order to obtain a ballot paper. The provisions (together with a further amendment made by Article 4) correspond to the provisions sections 1 and 2 of the Elections (Northern Ireland) Act 1985 made in respect of parliamentary elections.

The Schedule also extends polling hours from 8 a.m. to 9 p.m. to 7 a.m. to 10 p.m. Article 6 of, and Schedule 2 to, this Order make consequential amendments to the official poll card.

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