EXPLANATORY MEMORANDUM TO

THE NORTHERN IRELAND ASSEMBLY (ELECTIONS) (AMENDMENT) ORDER 2010

2010 No. 2892

1. This explanatory memorandum has been prepared by the Northern Ireland Office (NIO) and is laid before Parliament by Command of Her Majesty.

2. Purpose of the instrument

2.1 This Order makes minor amendments to the Northern Ireland Assembly (Elections) Order 2001 ("the 2001 Order") to ensure consistency with legislation governing Parliamentary, European Parliamentary and local elections in Northern Ireland where appropriate.

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

3.1 None.

4. Legislative Context

4.1 The 2001 Order makes provision for the conduct of elections to the Northern Ireland Assembly. It applies, with modifications as necessary, provisions of, amongst others, the Representation of the People Act 1983 ("the 1983 Act"), the Representation of the People Act 1985 and the Representation of the People (Northern Ireland) Regulations 2008 ("the 2008 Regulations"). It was substantially amended by the Northern Ireland Assembly (Elections) (Amendment) Order 2009 to take account of changes made to electoral law by the Electoral Administration Act 2006. Further minor amendments are now required following changes made to the 2008 Regulations by the Representation of the People (Northern Ireland) (Amendment) Regulations 2010 ("2010 Regulations") and to provide consistency with changes proposed in relation to the legislation governing local elections in Northern Ireland.

5. Territorial Extent and Application

5.1 This instrument applies to Northern Ireland only.

6. European Convention on Human Rights

6.1 The Minister of State for Northern Ireland, Hugo Swire, has made the following statement regarding Human Rights:

'In my view the provisions of the Northern Ireland Assembly (Elections) (Amendment) Order 2010 are compatible with the Convention rights.'

7. Policy background

7.1 This Order makes minor amendments to the 2001 Order to provide consistency with the legislation governing other elections in Northern Ireland. Article 2 of the Order inserts new article 8 in the 2001 Order and provides that where the number of persons standing nominated is less than the number of seats to be filled, an election must be held to fill any remaining vacancies. This may be because following the death of a candidate or candidates there are fewer candidates nominated than there are seats to be filled, or it may be because too few nominations are received.

7.2 Article 3 amends the application of provisions of the 1983 Act and the Parliamentary elections rules to ensure consistency with proposed amendments to local elections legislation in Northern Ireland. In particular, provision is made for candidates standing in the name of two or more parties to have one of those party's emblems alongside their particulars on the ballot paper, providing the request is made jointly by the nominating officers of those parties; presiding officers to disclose information about the number of ballot papers issued only in accordance with directions given by the returning officer; and the insertion of new rule 8A enabling a person to place a mark (witnessed by one person) in place of any signature required under rules 6, 7 or 8 of the Assembly elections rules.

7.3 Article 4 of the Order amends the application and modification of the 2008 Regulations to ensure that amendments made by the 2010 Regulations and which apply to Parliamentary elections are reflected at Assembly elections. For example, paragraph (2) applies regulations 55A and 55B, which require that individuals requesting that their absent vote is sent to a different address than that at which they are registered must provide reasons for this. This measure is intended to protect against electoral fraud.

8. Consultation outcome

8.1 Both the Electoral Commission and the Chief Electoral Officer were consulted during the preparation of this draft Order and support these measures. The Secretary of State has a statutory duty to consult with the Electoral Commission under section 7 of the Political Parties,

Elections and Referendums Act 2000, and he has consulted with them in accordance with this.

9. Guidance

9.1 These Regulations are not accompanied by any guidance.

10. Impact

10.1 An Impact Assessment has not been prepared for this instrument as it has no impact on business, charities or voluntary bodies.

11. Regulating small business

11.1 The legislation does not apply to small business.

12. Monitoring & review

12.1 The 2001 Order will be kept under review and updated as required in the light of consultation and discussion with stakeholders including the Chief Electoral Officer and Electoral Commission.

13. Contact

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Northern Ireland Office
October 2010