EXPLANATORY MEMORANDUM TO

THE NORTHERN IRELAND ASSEMBLY (ELECTIONS) (AMENDMENT) ORDER 2014

2014 No. 1804

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 This Order amends Schedules 1 and 2 to the Northern Ireland Assembly (Elections) Order 2001 (the 2001 Order) to implement a scheme of anonymous registration for elections to the Northern Ireland Assembly.

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 this Order:

- The Representation of the People (Northern Ireland) (Amendment) Regulations 2014
- The European Parliamentary Elections (Anonymous Registration) (Northern Ireland) Regulations 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 Northern Ireland Assembly (Elections) (Amendment) Order 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 The Anonymous Registration (Northern Ireland) Order 2014 made changes to the Representation of the People Act 1983 (the 1983 Act) and the Representation of the People (Northern Ireland) Regulations 2008 (the 2008 Regulations), to implement the anonymous registration scheme in Northern Ireland for parliamentary and local elections. Schedules 1 and 2 to the 2001 Order apply certain provisions of the 1983 Act and the 2008 Regulations to elections to the Northern Ireland Assembly. This Order makes amendments to Schedules 1 and 2 of the 2001 Order to ensure that the recent amendments made to the 1983 Act and 2008 Regulations for anonymous registration will also work for Northern Ireland Assembly elections.

7.5 These amendments include ensuring provisions on donations to candidates and on the use of tendered postal ballot papers work for Assembly elections. The Order also introduces new postal poll cards and proxy postal poll cards for use at Northern Ireland Assembly elections. These are consistent with those introduced for parliamentary and local elections in the Anonymous Registration (Northern Ireland) Order 2014.

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.

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