EXPLANATORY MEMORANDUM TO

THE POLITICAL DONATIONS AND REGULATED TRANSACTIONS (ANONYMOUS ELECTORS) REGULATIONS 2008

2008 No. 2869

1. This explanatory memorandum has been prepared by the Ministry of Justice and is laid before Parliament by Command of Her Majesty.

2. Purpose of the instrument

2.1 The Regulations prescribe the form of evidence required from an elector who is registered anonymously in an electoral register who wishes to make a loan or donation to a political party.

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

3.1 None

4. Legislative Context

4.1 Political parties may only accept donations and loans from an individual if that person is registered in an electoral register. The Electoral Administration Act 2006 (c.22) established a framework for anonymous registration, allowing a registration officer to create an anonymous entry on the electoral register for a person whose safety, or that of people they live with, would be at risk if the register contained their name and address. The Representation of the People (England and Wales) Regulations 2001 (S.I.2001/341) and the Representation of the People (Scotland) Regulations 2001 (S.I.2001/497) provide that when a person has been entered on the register as an anonymous elector they are issued with a certificate of anonymous registration. The Political Parties, Elections and Referendums Act 2000 (c.41) provides that when reporting a donation or loan from an anonymously registered elector to the Electoral Commission a political party must state that it has seen evidence that the elector has an anonymous entry in the electoral register and provide a copy of that evidence. These Regulations make provision in relation to the evidence which is acceptable.

5. Territorial Extent and Application

5.1 The instrument applies to all of Great Britain.

5.2 These Regulations revoke and replace the Political Donations and Regulated Transactions (Anonymous Electors) (England and Wales) Regulations 2006 (S.I.2006/2974) which prescribed the form of evidence required for England and Wales but not for Scotland.

The SI does not extend to Northern Ireland because there is no provision for anonymous registration there at present.

6. European Convention on Human Rights

6.1 As the instrument is subject to the negative resolution procedure and does not amend primary legislation, no statement is required.

7. Policy Background

7.1 In order to make a donation or loan to a political party an individual must be registered in an electoral register.

A person who has been registered anonymously will not have their name or address published on an electoral register so if they wish to make a donation to a political party there is no way for the party to check that the donor is registered.

In order to enable political parties to accept donations or loans from individuals who are registered anonymously, the party can request to see evidence of an individual's anonymous registration.

These Regulations prescribe that the form of evidence that is required to establish that a donor is registered is a certificate of anonymous registration. The party must state that they have seen such evidence when reporting a donation or loan to the Electoral Commission and provide a copy of it.

- *Consolidation.*

7.2 By revoking the earlier instrument and providing one SI to cover Great Britain, we are simplifying the law and facilitating ease of reference.

8. Consultation Outcome

8.1 Scotland Office has been consulted regarding the Regulations. Although there is no formal requirement to consult the Electoral Commission, they have also been consulted informally. Both are content.

9. Guidance

The Electoral Commission will make electoral administrators aware of these Regulations and issue guidance in the form of a bulletin.

10. Impact

10.1 The impact on business, charities and voluntary bodies is nil.

10.2 The impact on the public sector is nil.

10.3 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

We keep the efficacy of the law under review by liaising with the Electoral Commission, who keep the Department informed of relevant issues regarding the enforcement of PPERA provisions on party financing and campaign expenditure.

13. Contact

13.1 Any queries about the content of this memorandum should be addressed to: Nnenna Orji at the Ministry of Justice, email: Nnenna.Orji @Justice.gsi.gov.uk tel. 0203 334 3868

Ministry of Justice