EXPLANATORY MEMORANDUM TO

THE POLITICAL DONATIONS AND REGULATED TRANSACTIONS (ANONYMOUS ELECTORS) REGULATIONS 2014

2014 No. 1806

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 These Regulations prescribe the evidence required to establish that a donor who has an anonymous entry in an electoral register is a registered elector.

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.

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 There is existing legislation in place for Great Britain prescribing the evidence required to establish that a donor who has an anonymous entry in an electoral register is a registered elector. The Political Donations and Regulated Transactions (Anonymous Electors) Regulations 2008 were introduced as part of the general implementation of the anonymous registration system in Great Britain. However, the legislation now needs to cover the whole of the United Kingdom so that a certificate of anonymous registration issued in one UK jurisdiction can also be recognised in the other jurisdictions. These Regulations therefore revoke and replace the existing Great Britain provisions. We have worked with the Cabinet Office on this change.

4.6 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 in Parliament on 4 June 2014:

- The Representation of the People (Northern Ireland) (Amendment) Regulations 2014
- The Northern Ireland Assembly (Elections) (Amendment) Order 2014
- The Anonymous Registration (Northern Ireland) (No. 2) Order 2014
- The Donations to Candidates (Anonymous Registration) Regulations 2014
- The European Parliamentary Elections (Anonymous Registration) (Northern Ireland) Regulations 2014

4.7 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. These Regulations and two of these linked instruments were published in draft, and others were described, in the Government consultation in September 2013.

4.8 This instrument is similar to the Donations to Candidates (Anonymous Registration) Regulations 2014, which have been laid before Parliament in that both provide that a certificate of anonymous registration is ‘approved’ evidence to show that a donor is on a UK electoral register. However, each instrument relates to different recipients of donations and they are made under different pieces of primary legislation. These Regulations are made under the Political Parties, Elections and Referendums Act 2000 and relate to registered political parties, members of registered parties, members associations, holders of relevant elective office, recognised third parties, and permitted participants in a referendum. In contrast, the Donations to Candidates (Anonymous Registration) Regulations 2014 relate only to candidates at parliamentary elections and are made under the Representation of the People Act 1983.

5. Territorial Extent and Application

5.1 This instrument extends and applies to the United Kingdom. These Regulations do not extend to Gibraltar.

6. European Convention on Human Rights

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

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 Under the provisions of the Political Parties, Elections and Referendums Act 2000, political parties, registered donees, recognised third parties and permitted participants in referendums must report donations and regulated transactions ('loans') received to the Electoral Commission, if they are above certain thresholds. Reports to the Electoral Commission must provide further details about the donation or loan, such as the name and address of the donor or lender, so that the Commission can check that they are permissible. With the exception of Irish citizens donating or lending to Northern Ireland registered parties and regulated donees or participants, individuals are only permissible donors or lenders if they are registered in an electoral register.

7.4 Amendments to the Political Parties, Elections and Referendums Act 2000, introduced as part of the anonymous registration system in Great Britain, provide that, in the case of donors who are registered anonymously, reports to the Electoral Commission should include a statement that the recipient has seen evidence that the individual has an anonymous entry in the electoral register, in place of the name and address of the donor or lender.

7.5 These Regulations provide that where a donor or lender who is anonymously registered, is making a donation to a political party, regulated donee, recognised third party or permitted participant in a referendum, a certificate of anonymous registration issued in the UK should be treated as evidence that an individual has an anonymous entry in the electoral register.

7.6 These Regulations ensure that an anonymous elector is not prevented from making a donation or loan to a relevant party in a different part of the UK. They specify that a certificate of anonymous registration issued in any part of the UK will be recognised as evidence of an anonymous entry in the rest of the UK.

8. Consultation outcome

8.1 No changes were made to this aspect of the anonymous registration system following either the 2008 consultation or the 2013 consultation.

9. Guidance

9.1 The Electoral Commission is the regulator of political funding. It provides guidance to political parties and other regulated organisations and individuals on checking permissibility of donors and reporting donations. The commission's guidance for political parties in Great Britain includes guidance on this issue. The Commission will update its guidance for Northern Ireland when anonymous registration is introduced.

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
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