

Draft Order laid before Parliament under section 156(4)(dd) of the Political Parties, Elections and Referendums Act 2000 (c.41) and article 6(5) of the Electoral Administration Act 2006 (Regulation of Loans etc: Northern Ireland) Order 2008, for approval by resolution of each House of Parliament.

DRAFT STATUTORY INSTRUMENTS

2008 No.

POLITICAL PARTIES

**The Political Parties, Elections and Referendums Act 2000
(Northern Ireland Political Parties) Order 2008**

Made 2008
Coming into force 1st July 2008

In accordance with section 71Z(4) of the Political Parties, Elections and Referendums Act 2000(a)(“the 2000 Act”) and article 6(1) of the Electoral Administration Act 2006 (Regulation of Loans etc: Northern Ireland) Order 2008(b)(“the 2008 Order”), the Electoral Commission has been consulted prior to making this Order.

A draft of this Order has been laid before Parliament under section 156(4)(dd) of the 2000 Act(c) and article 6(5) of the 2008 Order and has been approved by a resolution of each House of Parliament.

The Secretary of State is satisfied that the condition in section 71Z1(2)(d) is met.

Accordingly, the Secretary of State, in exercise of the powers conferred on him by article 6(1) and (2)(a) of the 2008 Order, and sections 71Z1(1)(a) and (b), 71Z3(1), 71Z4(2)(b) and (4)(e) and 156(5) of the 2000 Act, makes the following Order:

PART I

Citation, commencement and interpretation

Citation and commencement

1. This Order may be cited as the Political Parties, Elections and Referendums Act 2000 (Northern Ireland Political Parties) Order 2008 and shall come into force on 1st July 2008.

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- (a) c.41. Section 71Z was inserted by article 3 of the Electoral Administration Act 2006 (Regulation of Loans etc: Northern Ireland) Order 2008 (S.I.2008/1319)(“the 2008 Order”).
(b) Footnote reference of the Order.
(c) Section 156(4)(dd) of the 2000 Act was inserted by article 4 of the 2008 Order.
(d) Sections 71Z1 was inserted by article 3 of the 2008 Order.
(e) Sections 71Z3 and 71Z4 of the 2000 Act were inserted by article 3 of, and article 5 of and the Schedule to, the 2008 Order.

Interpretation

2. In this Order—

“the 2000 Act” means the Political Parties, Elections and Referendums Act 2000;

“individual participant” means an individual who is an authorised participant by virtue of—

- (a) section 71H(3) of the 2000 Act(a), or
- (b) section 71Z1(1)(a) of that Act (Irish citizen entering into a regulated transaction with a Northern Ireland participant);

“Northern Ireland participant” has the meaning given in section 71Z of the 2000 Act;

“Northern Ireland report” means a report to the Commission which is prepared by a Northern Ireland participant and contains, or purports to contain, information required to be given by Schedule 6A or 7A to the 2000 Act, but does not include a report required to be prepared by virtue of section 71Q of that Act(b);

“prescribed bodies” has the meaning given by article 4(2);

“recordable transaction”, other than in Schedule 1, means a transaction which is required to be recorded in a Northern Ireland report;

“reporting period” has the meaning given by section 71M(3) of the 2000 Act(c) in relation to reports prepared pursuant to that section but, in relation to reports which contain, or purport to contain, information required to be given pursuant to Schedule 7A to the 2000 Act, it means each month; and

“selected Northern Ireland transaction” means a recordable transaction involving a Northern Ireland participant which is selected by the Commission for verification under article 8.

PART II

Extension of categories of authorised participants in relation to Northern Ireland participants

Irish citizens as authorised participants

3. For the purposes of section 71Z1(1)(a) of the 2000 Act, the prescribed condition in relation to an Irish citizen is that at the time he enters into a regulated transaction or controlled transaction relating to a Northern Ireland participant he must be eligible to obtain one of the following documents—

- (a) an Irish passport;
- (b) a certificate of nationality; or
- (c) a certificate of naturalisation.

Irish bodies as authorised participants

4.—(1) The description or category of body prescribed, for the purposes of section 71Z1(1)(b) of the 2000 Act, is any of the bodies set out in paragraph (2) which keeps an office in Ireland or Northern Ireland being an office from which the carrying on of one or more of its principal activities is directed.

(2) The prescribed bodies are—

- (a) a company—
 - (i) appearing on the Register of Companies of Ireland; and

(a) Section 71H was inserted by section 61 of the Electoral Administration Act 2006 (c.22)(“the EA Act”) and provides that an authorised participant is a person who is a permissible donor within the meaning of section 54(2) of the 2000 Act.
(b) Section 71Q and Schedule 6A were inserted by section 61 of the EA Act and Schedule 7A was inserted by Part 6 of Schedule 1 to that Act.
(c) Section 71M was inserted by section 61 of the EA Act.

- (ii) incorporated within Ireland or another member State;
- (b) a political party appearing on the Register of Political Parties of Ireland;
- (c) a trade union registered by the Registrar of Friendly Societies of Ireland;
- (d) a building society registered by the Central Bank and Financial Services Authority of Ireland;
- (e) a limited liability partnership registered by the Registrar of Companies of Ireland;
- (f) a friendly society or industrial and provident society registered by the Registrar of Friendly Societies of Ireland; and
- (g) any unincorporated association of two or more persons which does not fall within any of the preceding paragraphs but which carries on business or other activities wholly or mainly in Ireland and whose main office is there.

Northern Ireland reports

5. Schedule 1 (which amends the 2000 Act in connection with the recording of transactions to which Northern Ireland participants are a party) has effect.

Minor and consequential amendments

6. Schedule 2 (minor and consequential amendments) has effect.

PART III

Duty of the Commission during the prescribed period

Steps to be taken by the Commission for the purpose of verifying information given in Northern Ireland reports

7. For the purposes of section 71Z3(1) of the 2000 Act the prescribed steps which the Commission must take for the purpose of verifying the information given in Northern Ireland reports during the prescribed period are set out in articles 8 and 9.

Selection of Northern Ireland recordable transactions

8.—(1) In each reporting period, in relation to each Northern Ireland participant who has provided a Northern Ireland report, the Commission must—

- (a) select for verification 50 per cent of all recordable transactions to which an individual participant is a party and which have been reported by that Northern Ireland participant in accordance with paragraphs (2) and (3); and
- (b) select for verification every recordable transaction to which an individual participant is not a party.

(2) In the case of a Northern Ireland participant who has reported an odd number of recordable transactions to which individual participants are a party during any reporting period, the Commission must determine the number of recordable transactions involving individual participants to be selected for verification by adding one to the number of recordable transactions involving individual participants reported by that Northern Ireland participant and dividing the resulting number by two.

(3) In the case of a Northern Ireland participant who has reported only one recordable transaction to which an individual participant is a party during any reporting period, the Commission must select that transaction for verification.

Verification of recordable transactions involving Northern Ireland participants

9.—(1) The Commission must take the following steps in relation to each selected Northern Ireland transaction.

(2) In relation to a Northern Ireland report made in respect of a selected Northern Ireland transaction, and any documentation provided with it, the Commission must take reasonable steps to ascertain whether—

- (a) the information provided in the report in relation to that transaction is accurate; and
- (b) any documentation provided with the report in relation to that transaction is genuine.

(3) The steps taken by the Commission under paragraph (2) may include, but are not limited to, contacting a body set out in article 11.

Disclosure of information relating to transactions which are required to be dealt with in accordance with section 71I or 71J of, or paragraph 5 or 6 of Schedule 7A to, the 2000 Act

10. If, after taking the steps prescribed by articles 8 and 9, the Commission believes on reasonable grounds that a transaction recorded in a Northern Ireland report fell to be dealt with under section 71I or 71J of, or paragraph 5 or 6 of Schedule 7A to, the 2000 Act, and that it has not been dealt with in this manner, the Commission must—

- (a) write to the Northern Ireland participant who provided the report informing him of the Commission's intention to publish the information in accordance with paragraph (b); and
- (b) publish the following information—
 - (i) the name of the Northern Ireland participant;
 - (ii) the value of the transaction;
 - (iii) the date the transaction was entered into;
 - (iv) whether the parties to the transaction (other than the Northern Ireland participant) are individuals or bodies; and
 - (v) in the case of a transaction involving a body, the type of body which is a party to the transaction with reference to article 4(2) or section 54(2) of the 2000 Act.

Disclosure of information by the Commission

11. The following bodies are prescribed for the purposes of section 71Z4(2)(b) of the 2000 Act—

- (a) a firm of solicitors in Ireland which has provided a statement in accordance with paragraph 2A(11) of Schedule 6A to the 2000 Act^(a);
- (b) the Central Bank and Financial Services Authority of Ireland;
- (c) the office of the Certification Officer;
- (d) the Corporate Officer of the House of Commons;
- (e) the Corporate Officer of the House of Lords;
- (f) the office of the Northern Ireland Certification Officer;
- (g) Companies House (meaning that part of the Department for Business, Enterprise and Regulatory Reform known as the Companies House Executive Agency);
- (h) the Department of Enterprise, Trade and Investment^(b);
- (i) the Department of Foreign Affairs of Ireland;
- (j) the Electoral Office for Northern Ireland;
- (k) the Financial Services Authority;

(a) Paragraph 2A of Schedule 6A is inserted by article 5 of, and Schedule 1 to, this Order.

(b) The Department was so named by the Departments (Northern Ireland) Order 1999 (1999/283 (N.I.1)).

- (l) the Northern Ireland Assembly Commission;
- (m) the office of any electoral registration officer;
- (n) the Registrar of Companies of Ireland;
- (o) the Registrar of Friendly Societies of Ireland; and
- (p) the Registrar of Political Parties of Ireland.

Northern Ireland Office
2008

Minister of State

SCHEDULE 1

Article 5

Details to be given in Northern Ireland reports

1. Schedule 6A to the 2000 Act is amended as follows.
2. In paragraph 2 (quarterly reports), in sub-paragraph (1), after “recordable transaction” insert “(other than one to which paragraph 2A applies)”.
3. After paragraph 2 insert—
 - “2A. (1) In relation to each recordable transaction that is an Irish transaction a quarterly report must comply with the following requirements of this paragraph in relation to each authorised participant (other than the registered party deriving the benefit of the transaction).
 - (2) “Irish transaction” means a transaction which is entered into in reliance on section 71Z1(1)(a) or (b) (extension of categories of authorised participants in relation to Northern Ireland participants).
 - (3) The report must record the fact that the transaction is an Irish transaction.
 - (4) In the case of a participant who is an Irish citizen the report must also—
 - (a) give the participant’s full name, and
 - (b) be accompanied by one of the following documents—
 - (i) a copy of the participant’s Irish passport certified by the Department of Foreign Affairs of Ireland;
 - (ii) a copy of the participant’s certificate of nationality certified by the Department of Foreign Affairs of Ireland; or
 - (iii) a copy of the participant’s certificate of naturalisation certified by the Department of Foreign Affairs of Ireland.
 - (5) In the case of a participant who is a company the report must also give—
 - (a) the company’s registered name;
 - (b) the address of its registered office; and
 - (c) the number with which it is registered.
 - (6) In the case of a participant who is a political party the report must also give—
 - (a) the party’s registered name; and
 - (b) the address of its registered headquarters.
 - (7) In the case of a participant who is a trade union the report must also give—
 - (a) the name of the trade union; and

(b) the address of its head or main office.

(8) In the case of a participant who is a building society the report must also give—

(a) the name of the society; and

(b) the address of its principal office.

(9) In the case of a participant who is a limited liability partnership the report must also give—

(a) the partnership's registered name; and

(b) the address of its registered office.

(10) In the case of a participant who is a friendly society or industrial and provident society the report must also give—

(a) the name of the society; and

(b) the address of its registered office.

(11) In the case of a participant who is an unincorporated association the report must also—

(a) give the name of the association;

(b) give the address of its main office in Ireland; and

(c) be accompanied by a statement made by a firm of solicitors currently practising in Ireland confirming the name and address of the association and the fact that it is an unincorporated association.”.

4.—(1) In paragraph 3 (identity of authorised participants: weekly reports), at the end add—

“(3) This paragraph does not apply in relation to a recordable transaction that is an Irish transaction (within the meaning given by paragraph 2A(2)).”

(2) After paragraph 3 insert—

“3A In relation to each recordable transaction that is an Irish transaction (within the meaning given by paragraph 2A(2)), a weekly report must—

(a) give all such details of the name of each authorised participant who is a party to the transaction (other than the registered party deriving the benefit from the transaction) as are for the time being known to the registered party; and

(b) record the fact that the transaction is an Irish transaction.”

(3) In paragraph 4 (identity of unauthorised participants), which shall become sub-paragraph (1) of that paragraph, at the end add—

“(2) This paragraph does not apply in relation to a recordable transaction that is an Irish transaction (within the meaning given by paragraph 2A(2)).”

(4) After paragraph 4 insert—

“4A In relation to each recordable transaction that is an Irish transaction (within the meaning given by paragraph 2A(2)) to which a person who is not an authorised participant is a party, a quarterly or weekly report must—

(a) give the name of the person;

(b) record the fact that the transaction is an Irish transaction; and

(c) give the date when, and the manner in which, the transaction was dealt with in accordance with subsections (3) to (5) of section 71I or those subsections as applied by section 71I(6) or 71J(2).”

SCHEDULE 2

Minor and consequential amendments

1. Schedule 7A to the 2000 Act is amended as follows.
2. In paragraphs 9(9)(a) and 9(10) (transaction reports: transactions with authorised participants), after “paragraphs 2” insert “, 2A”.
3. In paragraph 10(3) (transaction reports: transactions with unauthorised participants) at the beginning insert “Subject to sub-paragraph (5),”.
4. In paragraph 10(4) at the beginning insert “Subject to sub-paragraph (5),”.
5. In paragraph 10, after sub-paragraph (4) insert—

“(5) In relation to a transaction falling within paragraph 5 or 6(1)(b) which is an Irish transaction within the meaning of paragraph 2A(2) of Schedule 6A, each such report must record the fact that the transaction is an Irish transaction.”
6. In paragraph 15(2) (register of recordable transactions) for “10(2), (3) and (4)” substitute “10(2) to (5)”.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order makes provision about the regulation of loans to parties registered in the Northern Ireland register of political parties and about the participation of certain members, associations of members and officers of such parties (“Northern Ireland participants”) in financial transactions connected with political activities.

The effect of sections 71Z and 71Z1 of the Political Parties, Elections and Referendums Act 2000 (“the 2000 Act”), as inserted by the Electoral Administration Act 2006 (Regulation of Loans etc: Northern Ireland) Order 2008 (S.I.2008/1319)(“the 2008 Order”), is to enable Northern Ireland participants to enter into regulated or controlled transactions with Irish citizens or prescribed Irish bodies which meet prescribed conditions. Part 2 of this Order makes provision to this end. The condition which must be met in relation to Irish citizens is set out in article 3 of this Order. Article 4 sets out the Irish bodies which are able to enter into regulated or controlled transactions with Northern Ireland participants. The Schedule to this Order amends Schedule 6A to the 2000 Act to set out the information which must be provided in relation to regulated transactions involving Irish authorised participants which the Northern Ireland participants are required to provide to the Electoral Commission (“the Commission”).

During the period from 1st July 2008 until 31st October 2010 (“the prescribed period”) article 5 of the 2008 Order and sections 71Z3 and 71Z4 of the 2000 Act, as inserted by the Schedule to the 2008 Order, modify the 2000 Act to place a duty on the Commission to verify the information contained in reports of regulated or controlled transactions prepared by Northern Ireland participants (“Northern Ireland reports”). Part 3 of this Order sets out the duty of the Commission during the prescribed period. The steps which the Commission must take in relation to these Northern Ireland reports are set out in articles 7 to 9 of this Order. The Commission may verify the information provided in the Northern Ireland reports by, for example, checking the register on which an Irish body which has become a party to the transaction is listed or contacting the bodies listed in article 11 to whom it is able to disclose information.

Section 71Z4 of the 2000 Act, as inserted by the 2008 Order, places a duty of confidentiality on the Commission in relation to information contained in Northern Ireland reports during the prescribed period. Under section 71Z4 of the 2000 Act, the Commission is empowered to release information contained in a Northern Ireland report, if it relates to a regulated or controlled transaction when it believes on reasonable grounds that a party to the transaction was not an authorised participant and the transaction therefore fell to be dealt with in accordance with section 71I or 71J of, or paragraph 5 or 6 of Schedule 7A to, the 2000 Act. Article 10 sets out the requirements in accordance with which such information must be released.

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