

Draft Order laid before Parliament under section 84(4) of the Northern Ireland Act 1998, for approval by resolution of each House of Parliament.

DRAFT STATUTORY INSTRUMENTS

2010 No.

NORTHERN IRELAND

**The Electoral Law Act (Northern
Ireland) 1962 (Amendment) Order 2010**

Made - - - - *****
Coming into force - - *In accordance with*
Article 1(2)

At the Court at Buckingham Palace, the *** day of *** 2010
Present,
The Queen's Most Excellent Majesty in Council

In accordance with section 7(3) of the Political Parties, Elections and Referendums Act 2000(1) the Electoral Commission has been consulted prior to this Order being laid before Parliament.

In accordance with section 84(4) of the Northern Ireland Act 1998(2) a draft of this Order has been laid before and approved by resolution of each House of Parliament.

Accordingly, Her Majesty, in exercise of the powers conferred on Her by section 84(1) and (3) of the Northern Ireland Act 1998, is pleased, by and with the advice of Her Privy Council, to order as follows:

Citation, commencement and interpretation

1.—(1) This Order may be cited as the Electoral Law Act (Northern Ireland) 1962 (Amendment) Order 2010.

(2) This Order shall come into force on the day after the day on which it is made.

(3) In this Order “the 1962 Act” means the Electoral Law Act (Northern Ireland) 1962(3).

(4) The amendments made by this Order have effect in relation to casual vacancies (within the meaning of section 11(4) of the 1962 Act(4)) arising on or after the day on which it comes into force.

(1) 2000 c. 41; amendments have been made to section 7(2) of this Act, but those amendments are not relevant to this Order.

(2) 1998 c. 47; section 84 was amended by the Elections Act 2001 (c. 7).

(3) 1962 c. 14 (N.I.).

(4) Section 11(4) was amended by S.I. 1985/1208 (N.I. 15).

Casual vacancies in district councils

2.—(1) Section 11 of the 1962 Act(5) (election and term of office of members of district councils) is amended as follows.

(2) In subsection (4), in the words following paragraph (c), for “occurs” substitute “arises”.

(3) In subsection (4A), for paragraphs (a) and (b) substitute “by a person returned or elected in accordance with sections 11D to 11K.”.

(4) After that subsection insert—

“(4AA) Any person returned as mentioned in subsection (4A) shall be deemed for all purposes to have been duly elected as a member of the council.

(4AB) The clerk of a district council must as soon as practicable after a casual vacancy arises notify the Chief Electoral Officer—

(a) that a casual vacancy has arisen in the council, and

(b) of the name of the member of the council whose seat has become vacant (in this Act referred to as the “previous member”).

(4AC) The clerk of a district council must, within 7 days from any other matter concerning a casual vacancy coming to the clerk’s knowledge, report it to the Chief Electoral Officer.”.

(5) Omit subsections (4B) and (4C).

(6) In subsection (5)—

(a) after “deemed” insert “for the purposes of rule 1(3) of the Local Elections Rules(6)”,

(b) in paragraph (a), for “the vacancy exists” substitute “an election must be held to fill the vacancy in accordance with section 11D, 11E, 11F, 11G or 11H”, and

(c) omit the words following paragraph (b).

(7) In subsection (6)—

(a) for “occurring” substitute “arising”, and

(b) for “member whom he has succeeded” substitute “previous member”.

Procedures for filling casual vacancies

3. After section 11 of the 1962 Act insert—

“Procedures for filling casual vacancies: interpretation

11A.—(1) For the purposes of this Part (other than section 11J(3)) a person (“P”) who is a member of a district council—

(a) stood as an independent when elected if the statement of persons nominated for the purposes of the last election for P’s seat showed no description or the description “independent” in respect of P;

(5) Section 11(1) was amended by S.I. 1972/1998 (N.I. 21) and S.I. 2009/225; section 11(1A) was inserted by S.I. 1985/454 and amended by S.I. 2005/862 and S.I. 1992/810 (N.I. 6) and by virtue of S.I. 2009/225 does not apply to the local general election to be held in 2011; section 11(3) was amended by S.I. 1985/454; subsections (4A) to (4B) were inserted by S.I. 1985/1208 (N.I. 15) and amended by the Elected Authorities (Northern Ireland) Act 1989 (c. 3); and section 11(5) was amended by S.I. 1992/810 (N.I. 6).

(6) The Local Elections Rules are contained in Schedule 5 to the 1962 Act. They were substituted in their entirety by Schedule 1 to the Local Elections (Northern Ireland) Order 1985 (S.I. 1985/454) and have been amended on a number of occasions since then. No amendments have been made to rule 1.

- (b) stood in the name of a registered party when elected if that statement showed a description of the type mentioned in rule 5A(1A) of the Local Elections Rules(7) in respect of P;
- (c) stood in the name of two or more registered parties when elected if that statement showed a description of the type mentioned in rule 5A(1C) of the Local Elections Rules in respect of P.

(2) If P is a member of the district council by virtue of being returned in accordance with section 11D, 11E or 11F, a reference in subsection (1) to the description in respect of P is a reference to the description in respect of the last member elected to the seat at an election.

(3) In this Part—

“nominating officer”, in relation to a registered party, means the person registered as its nominating officer under the Political Parties, Elections and Referendums Act 2000(8) in the Northern Ireland register (within the meaning of that Act);

“registered party” means a party registered under that Act in that register;

“statement of persons nominated” means the statement of persons nominated published under rule 12 of the Local Elections Rules(9).

(4) References in this Part to a person being qualified to be returned are to be construed in accordance with sections 3 and 4 of the Local Government Act (Northern Ireland) 1972(10).

Initial response to vacancy

11B.—(1) On receipt of a notice of a casual vacancy to which section 11(4)(a) or (b) applies from the clerk of a district council under section 11(4AB) the Chief Electoral Officer must determine, by reference to the statement of persons nominated for the purposes of the last election to the seat, whether the previous member—

- (a) stood as an independent when elected (see section 11D),
- (b) stood in the name of a registered party when elected (see section 11E), or
- (c) stood in the name of two or more registered parties when elected (see section 11F).

(2) This section is subject to sections 11H (transitional provision for previously co-opted members) and 11J (transitional provision for elected members).

Independent members: list of substitutes

11C.—(1) A member of a district council who stood as an independent when elected may give to the Chief Electoral Officer a list in accordance with subsection (2) (in this Act referred to as a “list of substitutes”).

(2) That list must—

- (a) be dated,
- (b) be signed by the member,

(7) Rule 5A was inserted by [S.I. 2001/417](#) and is amended by Article 4 of this Order.

(8) [2000 c. 41](#); Part 2 of this Act concerns registration of political parties. Relevant amendments have been made to this Part by Part 7 of the Electoral Administration Act [2006 \(c. 22\)](#).

(9) The Local Elections Rules are contained in Schedule 5 to the 1962 Act. They were substituted in their entirety by Schedule 1 to the Local Elections (Northern Ireland) Order 1985 ([S.I. 1985/454](#)) and although they have been amended on a number of occasions since then no amendments have been made to rule 12.

(10) [1972 c. 9 \(N.I.\)](#); sections 3 and 4 were amended by section 11 of the Elected Authorities (Northern Ireland) Act [1989 \(c. 3\)](#). Section 3 was also amended by [S.I. 1995/1948](#) and section 18 of, and paragraph 47 of Schedule 1 to, the Electoral Administration Act [2006 \(c. 22\)](#). Section 4 was also amended by [S.I. 2005/1455](#), [S.I. 2005/1968](#) and [S.R. 2006/21](#).

- (c) set out the names, addresses and dates of birth of not more than six persons for the purpose of filling any casual vacancy in the member's seat and indicate, where more than one person is named, an order of preference, and
 - (d) be signed by those persons indicating their consent to be contacted in accordance with section 11D.
- (3) Where the member has given the Chief Electoral Officer more than one list of substitutes, the latest list supersedes any earlier one.

Independent members: filling casual vacancies

11D.—(1) The following provisions apply if—

- (a) a casual vacancy arises in the seat of a member of a district council,
- (b) the Chief Electoral Officer determines the previous member stood as an independent when elected, and
- (c) the previous member has given the Chief Electoral Officer a list of substitutes.

(2) As soon as practicable after receiving the notice of the vacancy the Chief Electoral Officer must take such steps as appear to the Chief Electoral Officer to be reasonable to contact the person who appears as the first choice in the list of substitutes with the request mentioned in subsection (3).

(3) That request is for the person to respond in writing in accordance with subsection (4) within 14 days from the date of the Chief Electoral Officer's request indicating whether the person is prepared to fill the vacancy.

(4) If the person is prepared to fill the vacancy, the response must—

- (a) state the person's date of birth,
- (b) declare that to the best of the person's knowledge and belief the person is qualified to be returned to fill the vacant seat,
- (c) declare that the person has made and served on the clerk of the council a declaration in the form set out in Part 2 of Schedule 2 to the Elected Authorities (Northern Ireland) Act 1989⁽¹¹⁾, and
- (d) be signed and dated by the person.

(5) Subsection (6) applies if—

- (a) the Chief Electoral Officer has taken reasonable steps to contact a person on the list of substitutes but has been unable to do so,
- (b) a person on the list of substitutes fails to respond to the Chief Electoral Officer's request in accordance with subsections (3) and (4), or
- (c) a person on the list of substitutes responds to the Chief Electoral Officer's request to indicate that the person is not prepared to fill the vacancy.

(6) If this subsection applies—

- (a) the person is not returned for the seat in question, and
- (b) the Chief Electoral Officer must repeat the procedure in subsection (2) in respect of each subsequent person (if any) whose name and address appears in the list of substitutes until the vacancy is filled or the names on the list are exhausted.

(11) 1989 c. 3; the declaration was amended by section 125 of, and paragraph 7 of Schedule 15 to, the Terrorism Act 2000 (c. 11).

(7) If a person responds to the Chief Electoral Officer's request in accordance with subsections (3) and (4) indicating that the person is prepared to fill the vacancy the Chief Electoral Officer must—

- (a) declare that person to be returned to fill the vacant seat, and
- (b) notify the person's name to the clerk of the council.

(8) But the Chief Electoral Officer may not declare a person to be returned to fill the vacant seat unless the clerk of the council has confirmed to the Chief Electoral Officer that a declaration by that person in the form set out in Part 2 of Schedule 2 to the Elected Authorities (Northern Ireland) Act 1989 has been received by the clerk.

(9) If the Chief Electoral Officer is unable to fill the vacancy under this section, an election must be held to fill the vacancy.

(10) If—

- (a) a casual vacancy arises in the seat of a member of a district council,
 - (b) the Chief Electoral Officer determines the previous member stood as an independent when elected, and
 - (c) the previous member has not given the Chief Electoral Officer a list of substitutes,
- an election must be held to fill the vacancy.

(11) This section is subject to section 11K (unfilled vacancies in a local election year).

Members for registered parties: filling casual vacancies

11E.—(1) This section applies if—

- (a) a casual vacancy arises in the seat of a member of a district council, and
- (b) the Chief Electoral Officer determines the previous member stood in the name of a registered party when elected.

(2) As soon as practicable after receiving the notice of the vacancy the Chief Electoral Officer must ask the nominating officer of that registered party to nominate in writing, within 28 days from the date of the Chief Electoral Officer's request, a person ("P") to fill the vacancy.

(3) The nomination must be made and signed by the nominating officer of the registered party and must specify a person who—

- (a) is qualified to be returned to fill the vacant seat, and
- (b) has made and served on the clerk of the council a declaration in the form set out in Part 2 of Schedule 2 to the Elected Authorities (Northern Ireland) Act 1989⁽¹²⁾.

(4) The nomination must be accompanied by a declaration that is signed and dated by P and that—

- (a) states P's date of birth,
- (b) gives P's consent to being returned to fill the vacant seat in the name of the registered party,
- (c) declares that to the best of P's knowledge and belief P is qualified to be returned to fill the vacant seat, and
- (d) declares that P has made and served on the clerk of the council a declaration in the form set out in Part 2 of Schedule 2 to the Elected Authorities (Northern Ireland) Act 1989.

(12) 1989 c. 3.

(5) If the nominating officer responds to the Chief Electoral Officer's request in accordance with subsections (2) to (4), the Chief Electoral Officer must—

- (a) declare P to be returned to fill the vacant seat, and
- (b) notify P's name to the clerk of the council.

(6) But the Chief Electoral Officer may not declare P to be returned to fill the vacant seat unless the clerk of the council has confirmed to the Chief Electoral Officer that a declaration by P in the form set out in Part 2 of Schedule 2 to the Elected Authorities (Northern Ireland) Act 1989 has been received by the clerk.

(7) An election must be held to fill the vacancy if the nominating officer does not respond to the Chief Electoral Officer's request in accordance with subsections (2) to (4).

(8) This section is subject to sections 11G (parties no longer registered) and 11K (unfilled vacancies in a local election year).

Members for two or more registered parties: filling casual vacancies

11F.—(1) This section applies if—

- (a) a casual vacancy arises in the seat of a member of a district council, and
- (b) the Chief Electoral Officer determines the previous member stood in the name of two or more registered parties when elected.

(2) As soon as practicable after receiving the notice of the vacancy the Chief Electoral Officer must ask the nominating officers of each of those registered parties jointly to nominate in writing, within 28 days from the date of the Chief Electoral Officer's request, a person ("P") to fill the vacancy.

(3) The joint nomination must be made and signed by the nominating officers of all of the registered parties and must specify a person who—

- (a) is qualified to be returned to fill the vacant seat, and
- (b) has made and served on the clerk of the council a declaration in the form set out in Part 2 of Schedule 2 to the Elected Authorities (Northern Ireland) Act 1989.

(4) The joint nomination must be accompanied by a declaration that is signed and dated by P and that—

- (a) states P's date of birth,
- (b) gives P's consent to being returned to fill the vacant seat in the names of the registered parties,
- (c) declares that to the best of P's knowledge and belief P is qualified to be returned to fill the vacant seat, and
- (d) declares that P has made and served on the clerk of the council a declaration in the form set out in Part 2 of Schedule 2 to the Elected Authorities (Northern Ireland) Act 1989.

(5) If the nominating officers respond to the Chief Electoral Officer's request in accordance with subsections (2) to (4), the Chief Electoral Officer must—

- (a) declare P to be returned to fill the vacant seat, and
- (b) notify P's name to the clerk of the council.

(6) But the Chief Electoral Officer may not declare P to be returned to fill the vacant seat unless the clerk of the council has confirmed to the Chief Electoral Officer that a declaration by P in the form set out in Part 2 of Schedule 2 to the Elected Authorities (Northern Ireland) Act 1989 has been received by the clerk.

(7) An election must be held to fill the vacancy if the nominating officers do not respond to the Chief Electoral Officer's request in accordance with subsections (2) to (4).

(8) This section is subject to sections 11G (parties no longer registered) and 11K (unfilled vacancies in a local election year).

Party or parties no longer registered

11G.—(1) This section applies if—

- (a) a casual vacancy arises in the seat of a member of a district council,
- (b) the Chief Electoral Officer determines the previous member stood in the name of a registered party or two or more registered parties when elected, and
- (c) on the day on which the Chief Electoral Officer receives the notice of the casual vacancy, the party or (as the case may be) at least one of the parties is no longer a registered party.

(2) An election must be held to fill the vacancy.

(3) This section is subject to section 11K (unfilled vacancies in a local election year).

Transitional provision for previously co-opted members

11H.—(1) This section applies in relation to a member (in this section referred to as a “co-opted member”) of a district council who was chosen by the council to fill a casual vacancy under section 11 as it had effect without the amendments made by the Electoral Law Act (Northern Ireland) 1962 (Amendment) Order 2010.

(2) A co-opted member may notify the Chief Electoral Officer in writing that, in the event of a casual vacancy to which section 11(4)(a) or (b) applies in the member's seat, the vacancy is to be treated as if—

- (a) the member stood as an independent when elected,
- (b) the member stood in the name of a registered party when elected, or
- (c) the member stood in the name of two or more registered parties when elected.

(3) A co-opted member may only give one notification under this section.

(4) If the co-opted member notifies the Chief Electoral Officer in accordance with subsection (2)(a), section 11C applies as if the member stood as an independent when elected.

(5) If the co-opted member notifies the Chief Electoral Officer in accordance with subsection (2)(b) or (c), the member must, at the same time, provide the name of the registered party or (as the case may be) parties in question.

(6) The following provisions apply if there is a casual vacancy to which section 11(4)(a) or (b) applies in the seat of a co-opted member.

(7) The notification of the vacancy by the clerk of the council to the Chief Electoral Officer under section 11(4AB) must indicate that the member of the council whose seat has become vacant was a co-opted member.

(8) If the co-opted member has given a notification to the Chief Electoral Officer in accordance with this section, the Chief Electoral Officer must make the determination under section 11B by reference to the notification (and not by reference to the statement of persons nominated for the purposes of the last election to the seat).

(9) If the co-opted member has not given a notification to the Chief Electoral Officer in accordance with this section—

- (a) section 11B does not apply, and
 - (b) an election must be held to fill the vacancy.
- (10) Subsection (9) is subject to section 11K (unfilled vacancies in a local election year).

Transitional provision for elected members

11J.—(1) This section applies in relation to a member of a district council elected as a member of that council at the local general election in 2005 or at an election to fill a casual vacancy held after that election but before the coming into force of the Electoral Law Act (Northern Ireland) 1962 (Amendment) Order 2010.

(2) If—

- (a) a casual vacancy to which section 11(4)(a) or (b) applies arises in the seat of such a member, and
- (b) the statement of persons nominated for the purposes of the last election to the member’s seat is not readily available,

the Chief Electoral Officer must make the determination required by section 11B in accordance with subsection (3).

(3) The Chief Electoral Officer must make the determination on the basis of such enquiries as the Chief Electoral Officer considers necessary as to whether the previous member—

- (a) stood as an independent when elected, or
- (b) stood in the name of a registered party when elected.

Unfilled vacancies in a local election year

11K.—(1) This section applies if—

- (a) section 11D, 11E, 11F, 11G or 11H would otherwise require an election to be held to fill a casual vacancy, and
- (b) the election would be held on or after the first day of January in a local election year.

(2) This section applies if a casual vacancy that is otherwise required to be filled in accordance with section 11D, 11E or 11F remains unfilled on the day on which the Chief Electoral Officer publishes notice of an election in a local election year under rule 1(2) of the Local Elections Rules(13)

(3) The vacancy is deemed to have been caused by the expiry of the normal term of office and accordingly is to be filled on the election day in that year.”.

Candidates standing in the name of two or more registered parties jointly

4.—(1) Schedule 5 to the 1962 Act (local elections rules) is amended as follows.

(2) In rule 5(3)(14) (requirements for description on candidate’s nomination paper)—

- (a) omit “(of not more than 6 words in length)”, and

(13) The Local Elections Rules are contained in Schedule 5 to the 1962 Act. They were substituted in their entirety by Schedule 1 to the Local Elections (Northern Ireland) Order 1985 (S.I. 1985/454) and have been amended on a number of occasions since then. No amendments have been made to rule 1.

(14) 1962 c. 14 (N.I.); the Local Elections Rules were substituted in their entirety by Schedule 1 to the Local Elections (Northern Ireland) Order 1985 (S.I. 1985/454) and have been amended on a number of occasions since then. Rule 5 was amended by and rule 5A inserted by S.I. 2001/417.

- (b) after “rule 5A(1)” insert “or (1B)”.
- (3) In rule 5A (nomination papers: name of registered political party)—
- (a) after paragraph (1) insert—
- “(1A) The description that may be authorised may be—
- (a) the name of the party registered in the Northern Ireland register under section 28 of the Political Parties, Elections and Referendums Act 2000(15), or
- (b) a description of the party registered in the Northern Ireland register under section 28A of that Act.
- (1B) A nomination paper may not include a description of a candidate which is likely to lead voters to associate the candidate with two or more registered political parties unless the parties are each qualifying parties in relation to the district electoral area and the description is a registered description authorised by a certificate—
- (a) issued by or on behalf of the registered nominating officer of each of the parties, and
- (b) received by the returning officer before the last time for delivery of nomination papers.
- (1C) For the purpose of paragraph (1B), a description is a registered description if it is a description registered in the Northern Ireland register for use by the parties under section 28B of the Political Parties, Elections and Referendums Act 2000.”,
- (b) in paragraph (2), after “paragraph (1)” insert “or (1B)”, and
- (c) in paragraph (3), after sub-paragraph (b) insert—
- “(c) a name or description is registered under section 28, 28A or 28B of that Act if it is registered under that section at the relevant time.”.
- (4) In rule 10(3A)(16) (decisions as to the validity of nomination papers) after “rule 5A(1)” insert “or (1B)”.

Consequential amendments

- 5.—(1) The Local Government Act (Northern Ireland) 1972(17) is amended as follows.
- (2) In section 3 (qualifications), after subsection (3) insert—
- “(4) In the application of this section to a person who is a candidate to be returned under section 11D, 11E or 11F (casual vacancies) of the Electoral Law Act (Northern Ireland) 1962, references to the date on which the person is nominated as a candidate are to the date of the person’s response under section 11D or declaration under section 11E or 11F (as the case may be).”.
- (3) In section 4 (disqualifications), after subsection (4) insert—
- “(5) In the application of this section to a person who is a candidate to be returned under section 11D, 11E or 11F (casual vacancies) of the Electoral Law Act (Northern Ireland) 1962, references to the day of the person’s election are to the date of the person’s response under section 11D or declaration under section 11E or 11F (as the case may be).”.
- (4) In section 148 (general interpretation), in the definition of “elected”—

(15) 2000 c. 41; section 28 was amended by article 4 of, and the Schedule to, S.I. 2004/366 and section 48 of the Electoral Administration Act 2006 (c. 22) and sections 28A and 28B (see below) were inserted by section 49 of that Act.

(16) Rule 10 was amended by S.I. 2001/417.

(17) 1972 c. 9 (N.I.); sections 3 and 4 were amended by section 11 of the Elected Authorities (Northern Ireland) Act 1989 (c. 3). Section 3 was also amended by S.I. 1995/1948 and section 18 of, and paragraph 47 of Schedule 1 to the Electoral Administration Act 2006 (c. 22). Section 4 was also amended by S.I. 2005/1455, S.I. 2005/1968 and S.R. 2006/21. Amendments have been made to section 148 but they are not relevant to this Order.

- (a) omit “chosen,” and
 - (b) after “selected” insert “or returned”.
- (5) The Elected Authorities (Northern Ireland) Act 1989**(18)** is amended as follows.
- (6) In section 4 (declaration against terrorism: councillors co-opted to fill casual vacancies)—
- (a) for “chosen by” substitute “returned to”, and
 - (b) in the heading for “co-opted” substitute “returned”.
- (7) In section 6(1) (breach of terms of declaration), for “chosen” substitute “declared to be returned”.
- (8) In section 7(4) (application to the High Court)—
- (a) for “chosen by” substitute “returned to”, and
 - (b) for “so chosen” substitute “so returned”.
- (9) In Part 2 of Schedule 2 (form for use in case of district councillor chosen to fill casual vacancy) for “chosen”, in each place, substitute “returned”.
- (10) In Article 3(3) of the Postponement of Local Elections (Northern Ireland) Order 2009**(19)** (persons elected or chosen after commencement of Order but before 1st January 2011), for “chosen” substitute “returned”.

Name
Clerk of the Privy Council

(18) 1989 c. 3. section 6 and the declaration in Part 2 of Schedule 2 were both amended by section 125 of, and paragraph 7 of Schedule 15 to, the Terrorism Act 2000 (c. 11).

(19) S.I. 2009/225.

EXPLANATORY NOTE

(This note is not part of the Order)

The Electoral Law Act (Northern Ireland) 1962 (“the 1962 Act”) makes provision for local elections to district councils in Northern Ireland. In particular section 11 of that Act makes provision for filling casual vacancies that arise mid-term and Schedule 5 comprises the local elections rules (which govern the procedure by which local elections are conducted). This Order amends both section 11 and Schedule 5. It also makes consequential amendments to the Local Government Act (Northern Ireland) 1972, the Elected Authorities (Northern Ireland) Act 1989 and the Postponement of Local Elections (Northern Ireland) Order 2009.

Section 11 of the 1962 Act makes provision for filling casual vacancies that arise on a district council. The vacancy may be filled by the council “co-opting” a new councillor to replace the former councillor (who may, for example, have died or retired). This requires the agreement of all councillors present at the co-option meeting. A by-election must be held to fill any vacancies not filled by co-option. Articles 2 and 3 of this Order amend section 11 and insert new sections 11A-11K (but there is no section 11I) so as to replace the system of co-option. In future, if a vacancy arises in the seat of a member who was elected in the name of a registered political party (or parties), then the nominating officer of that party (or parties) will nominate his or her replacement (new sections 11E and 11F). If a vacancy arises in the seat of a member who was elected as an independent, his or her replacement will be selected from a list of “substitutes” provided by that member prior to the vacancy arising (new sections 11C and 11D). Whether a member stood as an independent or in the name of a registered party (or parties) will be determined by the Chief Electoral Officer for Northern Ireland by reference to the statement of persons nominated published under rule 12 of the local elections rules for the election at which that member was elected (new sections 11A and 11B). If when the Chief Electoral Officer receives notice of the vacancy, the party or parties (or one of the parties) in whose name the member was elected are no longer registered, a by-election will be held to fill the vacant seat (new section 11G).

New section 11H makes transitional provision in respect of current members of district councils who were themselves chosen by co-option. They may elect to be replaced, in the event of a vacancy in their seat arising after this Order comes into force, by a substitute or a nominee of a registered party (or parties). Such a member may make one such election only. If no election is made, and a vacancy arises in the seat, then a by-election must be held to fill it.

New section 11J makes transitional provision in respect of members of district councils elected to a council at the local general election in 2005 or at an election held to fill a casual vacancy since then. The statement of persons nominated for such elections may no longer be available and so, if it is not, the Chief Electoral Officer must make such enquiries as she or he considers necessary to determine whether the member was elected as an independent or in the name of a registered party. It is the amendments to the 1962 Act made by this Order (see explanation of Article 4 below) that enable candidates to stand in the name of two or more registered parties at a local election and so no transitional provision is required to determine whether the member stood in the name of two or more registered parties.

New section 11K applies to vacancies that arise before 1st January in a local election year but remain unfilled on or after 1st January. No by-election may be held to fill these vacancies. If such a vacancy is otherwise being filled and hasn’t been by the time a notice of a local general election is published, then it shall remain so until it is filled at that local general election.

Draft Legislation: This is a draft item of legislation. This draft has since been made as a UK Statutory Instrument: The Electoral Law Act (Northern Ireland) 1962 (Amendment) Order 2010 No. 1178

The Political Parties, Elections and Referendums Act 2000 makes provision for the registration of party names and descriptions. Article 4 inserts new rule 5A(1A)-(1C) in the local elections rules and makes consequential amendments to rules 5 and 10. New rule 5A(1A) prohibits the use of a description on the nomination paper of a candidate standing in the name of a registered party at a local election unless that description is the party's registered name or one of its registered descriptions. New rule 5A(1B) prohibits the use of a description on the nomination paper of a candidate standing in the name of two or more registered parties jointly unless that description is a joint description registered by those parties for candidates standing jointly.

Article 5 makes consequential amendments to the Local Government (Northern Ireland) Act 1972, the Elected Authorities (Northern Ireland) Act 1989 and the Postponement of Local Elections (Northern Ireland) Order 2009. In particular references to councillors having been "chosen" in these enactments have been changed to "returned" to reflect the amendments to section 11 of the 1962 Act described above.

A full impact assessment has not been produced for this instrument as no impact on the private or voluntary sector is foreseen.