

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

2012 No.

NORTHERN IRELAND

The District Electoral Areas Commissioner
(Northern Ireland) Order 2012

Made - - - - ***

Coming into force in accordance with Article 1(2)

At the Court at Buckingham Palace, the *** day of ***

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 District Electoral Areas Commissioner (Northern Ireland) Order 2012.

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

(3) In this Order—

“the 1972 Act” means the Local Government Act (Northern Ireland) 1972(3);

(1) 2000 c. 41; amendments have been made to section 7 but they are not relevant to this Order.

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

(3) 1972 c. 9; relevant amendments are referenced in this Order.

“the 1984 Order” means the District Electoral Areas Commissioner (Northern Ireland) Order 1984(4); and

Amendments to the 1984 Order

2.—(1) The 1984 Order is amended as follows.

(2) In Article 2(1)(5) omit “or (b)”.

(3) After Article 2(1) insert—

“(1A) Where a Local Government Boundaries Commissioner has been appointed under section 50(1)(b)(6) of the 1972 Act the Secretary of State may appoint a Commissioner to carry out the function conferred by paragraph (2).”

(4) After Article 2(2) insert—

“(3) Where an order is made under section 50(10) of the 1972 Act and the Secretary of State has not exercised the power to appoint a Commissioner under paragraph (1A), the Secretary of State must do so as soon as practicable after that order is made.

(4) Where a Commissioner has been appointed under this Article but the appointment has come to an end before the Commissioner has carried out the function conferred by paragraph (2), the Secretary of State shall appoint a Commissioner (who may be the same person as the Commissioner whose appointment has come to an end) to carry out that function.

(5) Where, when the duty to make the appointment under paragraph (4) first arises, an order under section 50(10) of the 1972 Act—

- (a) has not been made, or
- (b) if made, has ceased to have effect,

the Secretary of State is not required to make the appointment until an order under section 50(10) of the 1972 Act has been made; but, if the appointment is not made before such an order is made, the Secretary of State must appoint the Commissioner as soon as practicable after the making of the order.”

(5) In Article 3(7) for paragraph (1) substitute—

“(1) Where a Local Government Boundaries Commissioner has been appointed under section 50(4) of the 1972 Act the Secretary of State may appoint a Commissioner to carry out the function conferred by paragraph (2).”

(6) After Article 3(2) insert—

“(3) Where an order is made under section 50(10) of the 1972 Act and the Secretary of State has not exercised the power to appoint a Commissioner under paragraph (1), the Secretary of State must do so as soon as practicable after that order is made.

(4) Where a Commissioner has been appointed under this Article but the appointment has come to an end before the Commissioner has carried out the function conferred by paragraph (2), the Secretary of State shall appoint a Commissioner (who may be the same person as the Commissioner whose appointment has come to an end) to carry out that function.

(5) Where, when the duty to make the appointment under paragraph (4) first arises, an order under section 50(10) of the 1972 Act—

- (a) has not been made, or

(4) [S.I. 1984/360](#); amended by [S.I. 2006/1253 \(N.I.8\)](#), [S.I. 2007/612 \(N.I.4\)](#) and [S.I. 2009/3016](#).

(5) Article 2 was amended by Article 3 of [S.I. 2007/612 \(N.I.4\)](#).

(6) Section 50 was substituted by Article 4(1) of [S.I. 2006/1253 \(N.I.8\)](#); subsections (1) and (2) of section 50 were subsequently substituted by section 2 of the Local Government (Boundaries) Act (Northern Ireland) 2008 (c. 7).

(7) Article 3 was amended by Article 4 of [S.I. 2007/612 \(N.I.4\)](#).

(b) if made, has ceased to have effect,

the Secretary of State is not required to make the appointment until an order under section 50(10) of the 1972 Act has been made; but, if the appointment is not made before such an order is made, the Secretary of State must appoint the Commissioner as soon as practicable after the making of the order.”

(7) After paragraph 6 of Schedule 2 insert—

“**6A.** Where a Commissioner has been appointed under Article 2(4) or Article 3(4), activities carried out by or on behalf of or in relation to the previous Commissioner under this Schedule shall be treated as having been carried out by or on behalf of or in relation to the new Commissioner.”

Appointment of a Commissioner

3.—(1) Article 2(4) of the 1984 Order shall apply where a person’s appointment as a Commissioner under Article 2(1) of the 1984 Order has come to an end before the coming into force of this Order; and in such a case the appointment of a Commissioner under Article 2(4) must be made as soon as practicable after the coming into force of this Order.

(2) Where in a case to which paragraph (1) applies the order under section 50(10) of the 1972 Act referred to in Article 2(2) of the 1984 Order has been made before the coming into force of this Order, Article 2(2) of the 1984 Order is to be treated as requiring the Commissioner to submit the report referred to in Article 2(2) as soon as practicable after the Commissioner’s appointment under Article 2(4) of the 1984 Order.

Name
Clerk of the Privy Council

EXPLANATORY NOTE

(This note is not part of the Order)

This Order makes provision for the appointment of a District Electoral Areas Commissioner (“DEAC”) in Northern Ireland. In 2008 a Local Government Boundaries Commissioner (“LGBC”) was appointed by the Department of the Environment (Northern Ireland) to make recommendations regarding the boundaries, names and wards of the new 11 local government districts. The wards in those districts, once established, will need grouping into electoral areas for the purposes of elections to those areas using the single transferrable vote form of proportional representation.

Article 2 amends Article 2 of the 1984 Order. This makes provision for the appointment of a DEAC when an LGBC has carried out periodic reviews. Currently the Secretary of State must appoint a DEAC as soon as practicable after an LGBC is appointed. Following the amendments made by this Order, the Secretary of State has a discretion as to when to make the appointment and may make it at any time after an LGBC’s appointment but must, if he or she has not done so already, make it as soon as practicable after an order giving effect to the LGBC’s recommendations is made. The Secretary of State must appoint a replacement DEAC if the DEAC’s appointment comes to an end before he or she has carried out the function of making recommendations as to the grouping of wards into electoral areas. In terms of timing, the Secretary of State is only required to make such a replacement appointment once an order giving effect to the LGBC’s recommendations has been made, and in such a case the Secretary of State must make the appointment as soon as practicable after the making of the order.

Article 2 also amends Article 3 of the 1984 Order which makes provision for the appointment of a DEAC when an LGBC has carried out ad hoc reviews. The amendments have the same effect as the corresponding amendments made to Article 2 of the 1984 Order.

Article 3 makes provision for the appointment of a replacement DEAC following the current review. The Secretary of State must appoint a DEAC as soon as practicable after the coming into force of this Order. If an Order is made under section 50 of the Local Government Act (Northern Ireland) 1972 giving effect to the LGBC’s recommendations before this Order comes into force, the DEAC must make recommendations as to the grouping of wards as soon as practicable after his or her appointment.

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