

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

2023 No. 0000

NORTHERN IRELAND

The Local Elections (Northern Ireland) Order 2023

Made - - - -

Coming into force

At the Court at Buckingham Palace, the day of 2023

Present,

The King'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 the laying of this Order.

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

Accordingly, His Majesty, in exercise of the power conferred on him by section 84(1) of the Northern Ireland Act 1998, is pleased, by and with the advice of His Privy Council, to order as follows.

Citation, commencement and extent

- 1.—(1) This Order may be cited as the Local Elections (Northern Ireland) Order 2023.
- (2) This Order comes into force on 31st October 2023.
- (3) This Order extends to Northern Ireland only.

Applications for the appointment of a proxy

2. In paragraph 9(1) of Schedule 2 to the Local Elections (Northern Ireland) Order 1985 (additional requirements for applications for the appointment of a proxy)⁽³⁾, omit “together with his family relationship, if any, with the applicant,”.

(1) 2000 c. 41.

(2) 1998 c. 47.

(3) S.I. 1985/454; Schedule 2 was substituted by S.I. 1987/168. Further amendments to paragraph 9 of Schedule 2 were made by S.I. 2014/1880.

Applications for postal vote where ballot papers are to be sent to a different address

3. In paragraph 12 of Schedule 2 to the Local Elections (Northern Ireland) Order 1985 (grant or refusal of applications)(4), at the end insert—

“(4) Sub-paragraphs (5) and (6) apply in the following situations—

- (a) where a person makes an application to vote by post under paragraph 1(1) (application for postal vote for indefinite period) and the addresses provided in accordance with paragraph 1(6) (address to which ballot paper should be sent) and paragraph 5(1)(b) (address in the register) are different;
- (b) where a person makes an application to vote by post under paragraph 2(1) (application for postal vote for a particular local election) and the addresses provided in accordance with paragraph 2(5) (address to which ballot paper should be sent) and paragraph 5(1)(b) (address in the register) are different;
- (c) where a person who is a proxy makes an application to vote by post under paragraph 4(4) (application by proxy for postal vote for indefinite period) or paragraph 4(6) (application by proxy for postal vote for a particular local election) and the addresses provided for the proxy in accordance with paragraph 4(11) (address to which ballot paper should be sent) and paragraph 5(1)(c) (proxy’s address as provided in proxy application) are different;
- (d) where a person makes an application under paragraph 2(2)(a) (application by person registered as postal voter for indefinite period to have ballot papers sent to a different address for a particular election);
- (e) where a person makes an application under paragraph 4(7) (application by proxy registered as postal voter for indefinite period for ballot papers to be sent to a different address for a particular election).

(5) Where the registration officer grants the application, the notification under sub-paragraph (1) must include a statement that the ballot paper will be sent to the address specified in the application as the address to which the ballot paper should be sent.

(6) A notification about the application under sub-paragraph (1), (2) or (3) must be delivered to the applicant’s normal address, except where sub-paragraph (7) applies.

(7) This sub-paragraph applies where the applicant is—

- (a) an applicant registered in pursuance of a service declaration,
- (b) an applicant registered in pursuance of a declaration of local connection (within the meaning of section 7B of the 1983 Act(5)),
- (c) an applicant who is a merchant seaman (within the meaning of section 6 of the 1983 Act(6)), or
- (d) an applicant who has an anonymous entry.

(8) In sub-paragraph (6), “the applicant’s normal address” means—

- (a) in the situation mentioned in sub-paragraph (4)(a) or (b), the address provided under paragraph 5(1)(b) (address in the register);
- (b) in the situation mentioned in sub-paragraph (4)(c), the address provided under paragraph 5(1)(c) (proxy’s address as provided in proxy application);

(4) Paragraph 12 was amended by S.I. 1987/168, S.I. 2010/2977 and by S.I. 2014/1116.

(5) Section 7B was inserted by section 6 of the Representation of the People Act 2000 (c. 2), and was amended by section 14(1)(a)(ii) of the Northern Ireland (Miscellaneous Provisions) Act 2014 (c. 13) and by S.I. 2007/1388. It is prospectively amended by paragraph 1(3) of Schedule 8 to the Elections Act 2022 (c. 37) from a date and time to be appointed. Other amendments have been made to section 7B that are not relevant to this Order.

(6) Section 6 was amended by paragraph 2 of Schedule 1 to the Representation of the People Act 2000 (c. 2).

- (c) in the situation mentioned in sub-paragraph (4)(d), the address recorded under paragraph 1(3)(a) (address provided in application for postal vote as address to which ballot papers should be sent);
- (d) in the situation mentioned in sub-paragraph (4)(e), the address recorded under paragraph 4(5) (address provided in application for postal vote by proxy as address to which ballot papers should be sent).”

Supply of date of birth lists to police and pursuant to a court order

- 4.—(1) The Local Elections (Northern Ireland) Order 2010(7) is amended as follows.
- (2) After Article 6 insert—

“Supply of date of birth lists to police and pursuant to a court order

6A. Schedule 2A to this Order (supply of date of birth lists to police and pursuant to a court order) has effect.”.

- (3) After Schedule 2 insert—

“SCHEDULE 2A

Article 6A

Supply of date of birth lists to police and pursuant to a court order

Interpretation

- 1.—(1) In this Schedule, “date of birth list” means a list prepared under rule 16B(1) of the Local Elections Rules (lists of electors’ and proxies’ dates of birth)(8) and includes any part of such a list.
- (2) Any duty imposed by this Schedule on the Chief Electoral Officer for Northern Ireland to supply a date of birth list imposes only a duty to provide the list in the form in which the Chief Electoral Officer holds it.

Supply of date of birth lists to police forces and restrictions on use

- 2.—(1) The Chief Electoral Officer for Northern Ireland must, on receipt of a written request from a police force for a date of birth list—
 - (a) if the request was for a copy of a date of birth list in printed form, provide the police force with a printed copy of the list specified in the request;
 - (b) if the request was for a date of birth list in data form, provide the police force with the data form of the list specified in the request.
- (2) No person serving whether as a constable, officer or employee in a police force may—
 - (a) supply a date of birth list, or a copy of such a list, to any person,
 - (b) disclose any information contained in a date of birth list, or
 - (c) make use of any such information,otherwise than for the purpose of the prevention and detection of crime and the enforcement of the criminal law (whether in Northern Ireland or elsewhere).
- (3) The restrictions in sub-paragraph (2) apply to a person—
 - (a) to whom a date of birth list (or copy) has been supplied under that sub-paragraph, or

(7) [S.I. 2010/2977](#).

(8) Rule 16B was inserted by paragraph 9 of Schedule 6 to the Elections Act 2022 (c. 37).

(b) to whom information in such a list has been disclosed under that sub-paragraph, as they apply to the persons referred to in that sub-paragraph.

(4) In this paragraph—

(a) “police force” means—

- (i) the Police Service of Northern Ireland and the Police Service of Northern Ireland Reserve,
- (ii) a police force in Great Britain,
- (iii) the National Crime Agency, or
- (iv) any body of constables established under an Act of Parliament;

(b) the reference to an employee in a police force includes—

- (i) any person working or providing services for the police force, and
- (ii) any person employed by or on behalf of, or working for, a person referred to in paragraph (i).

Court orders for production of date of birth lists

3.—(1) The High Court, a county court or an election court may make an order for the inspection or production of a date of birth list, if satisfied by evidence on oath that the order is required for the purposes of—

- (a) instituting or maintaining a prosecution in relation to an election, or
- (b) an election petition.

(2) An order under sub-paragraph (1) may be made subject to conditions, including conditions relating to—

- (a) the persons who may inspect the list or to whom the list may be produced,
- (b) the time of inspection or production, and
- (c) the place and mode of inspection or production.

(3) An appeal lies to the High Court from any order of a county court or an election court under sub-paragraph (1).

(4) A power to make an order under sub-paragraph (1)—

- (a) in the case of a power of the High Court, may be exercised by any judge of the court otherwise than in open court, and
- (b) in the case of a power of a county court, may be exercised in such manner as may be provided by rules of court.

(5) Where an order is made for the production of a date of birth list relating to a specified election, the production of the list in such manner as directed by the order is to be conclusive evidence that the list relates to the specified election.

(6) A third party who has inspected a date of birth list or to whom a date of birth list has been produced pursuant to an order under sub-paragraph (1) may not—

- (a) supply the list, or a copy of it, to any person,
- (b) disclose any information contained in it, or
- (c) make use of any such information,

otherwise than for the purposes of the proceedings in relation to which the order was made.

(7) The restrictions in sub-paragraph (6) apply to a person—

- (a) to whom a date of birth list (or copy) has been supplied under that sub-paragraph, or

(b) to whom information in such a list has been disclosed under that sub-paragraph, as they apply to the third party to whom the list was first supplied.

(8) In this paragraph—

“election court” has the same meaning as in the 1962 Act (see section 72 of that Act);

“third party” means a person other than a person to whom the Chief Electoral Officer for Northern Ireland may delegate functions.

Offence of failure to comply with restrictions under paragraphs 2 and 3

4.—(1) A person is guilty of an offence—

- (a) if they fail to comply with any of the restrictions imposed under paragraph 2 or 3, or
- (b) if they are an appropriate supervisor of a person (P) who fails to comply with any of those restrictions and they failed to take appropriate steps.

(2) P is not guilty of an offence under sub-paragraph (1) if—

- (a) P has an appropriate supervisor, and
- (b) P has complied with all the requirements imposed on P by the appropriate supervisor.

(3) A person who is not P or an appropriate supervisor is not guilty of an offence under sub-paragraph (1) if they take all reasonable steps to ensure that they comply with the restrictions.

(4) For the purposes of this paragraph—

- (a) an appropriate supervisor is a person who is a director of a company or concerned in the management of an organisation in which P is employed or under whose direction or control P is;
- (b) appropriate steps are such steps as it was reasonable for the appropriate supervisor to take to secure the operation of procedures designed to prevent, so far as reasonably practicable, the occurrence of a failure to comply with the restrictions.

(5) A person guilty of an offence as mentioned in sub-paragraph (1) is liable on summary conviction to a fine not exceeding level 5 on the standard scale.”.

Forms used in local elections

5.—(1) In the Electoral Law Act (Northern Ireland) 1962(9), in Schedule 5 (local election rules)(10)—

- (a) replace Form 6 (elector’s official poll card)(11) with the form in Schedule 1;
- (b) replace Form 7 (proxy’s official poll card)(12) with the form in Schedule 2.

(2) In the Local Elections (Northern Ireland) Order 1985(13), in Part 1 of Schedule 2 (voting by post, by proxy and by post as proxy), in the Appendix(14), replace Form 1 (Proxy paper)(15) with the form in Schedule 3.

(9) 1962 c. 14.

(10) Schedule 5 was substituted in its entirety by S.I. 1985/454.

(11) Form 6 was replaced by S.I. 2015/566.

(12) Form 7 was replaced by S.I. 2015/566.

(13) S.I. 1985/454.

(14) The Appendix to Part 1 of Schedule 2 was substituted by S.I. 1987/168 and amended by S.I. 2005/1969, S.I. 2010/2977 (including re-numbering the forms), S.I. 2014/116 and S.I. 2015/566.

(15) Form 1 was replaced by S.I. 2015/566.

Transitional provision relating to proxy paper form

6.—(1) This Article applies where a proxy appointment is made during the period—

- (a) beginning with 31st October 2023, and
- (b) ending with 5th March 2024.

(2) Form 1 (proxy paper), as inserted into the Appendix to Part 1 of Schedule 2 to the Local Elections (Northern Ireland) Order 1985 by Article 5(2), applies as if, on the last page, in paragraph 2, at the beginning there were inserted “In relation to an election for which the date of the poll is on or after 5th March 2024,”.

(3) In this Article, “proxy appointment” has the same meaning as in paragraph 9(6) of Schedule 4 to the Elections Act 2022(16).

Date

Name
Clerk of the Privy Council

SCHEDULES

SCHEDULE 1

Article 5(1)(a)

Form 6

Form 6
Front of Card

Poll card		Your details: [Elector's name and qualifying address details here]
Local Council Election [insert name of District Council] District Council [insert name of District Electoral Area] District Electoral Area		Number on register:
Voting information		Remember that you will not be able to vote unless you show one of the following forms of photographic identification:
Polling day		<ul style="list-style-type: none">• A UK, Irish or EEA driving licence• A UK or Irish passport• An Electoral Identity Card• A Translink Senior SmartPass• A Translink 60+ SmartPass• A Translink War Disabled or War Disablement SmartPass• A Translink Blind Person's or Registered Blind SmartPass• A Translink Half Fare SmartPass• A biometric immigration document
Polling hours	7.00am to 10.00pm	It is an offence to:
Ballot box number		<ul style="list-style-type: none">• vote more than once at this election, unless you are voting on your own behalf and as a proxy for another person• vote as a proxy on behalf of more than four electors, of which no more than two may be domestic electors (a domestic elector is one who is not an overseas or service elector)• vote as a proxy for someone if you know that by law they are not allowed to vote
Your polling station will be		
You do not need to take this card with you in order to vote but it will save time if you do.		Please turn over

Draft Legislation: This is a draft item of legislation. This draft has since been made as a UK Statutory Instrument: The Local Elections (Northern Ireland) Order 2023 No. 1083

Back of Card

<p>If you are away or cannot go to the polling station on [day] [date of poll] you can do one of the following:</p> <ul style="list-style-type: none">• Apply to vote by post. Completed applications must be returned by 5pm on [day] [date of deadline]. If you are given a postal vote, you will not be able to vote in person at this election. <p>OR</p> <ul style="list-style-type: none">• Apply to vote by proxy (this means someone else can vote on your behalf). Completed applications must be returned by 5pm on [day] [date of deadline]. <p>An application form is available on the website or can be requested from the helpline.</p>	<p>! If you need any help, require information in another format or language or wish to find out if your polling station is accessible, please contact us.</p> <p>[insert helpline and other contact details including website]</p>
<p>Electoral fraud is a crime</p>	
<p>Issued by the Chief Electoral Officer.</p>	
<p>If undelivered return to: [insert return address]</p>	

SCHEDULE 2

Article 5(1)(b)

Form 7

*Form 7
Front of Card*

Proxy poll card	
Local Council Election [insert name of District Council] District Council [insert name of District Electoral Area] District Electoral Area	
Voting information	
Polling day	
Polling hours	7.00am to 10.00pm
Ballot box number	
Your polling station will be	
<p>For this election you are proxy for: [Elector's name] [Elector's address] [Elector's number on register]</p> <p>You do not need to take this card with you in order to vote but it will save time if you do.</p>	
<p>Your details: [Proxy's name and address details here]</p> <p>Remember that you will not be able to vote unless you show one of the following forms of photographic identification:</p> <ul style="list-style-type: none"> • A UK, Irish or EEA driving licence • A UK or Irish passport • An Electoral Identity Card • A Translink Senior SmartPass • A Translink 60+ SmartPass • A Translink War Disabled SmartPass • A Translink Blind Person's SmartPass • A Translink Half Fare SmartPass • A biometric immigration document <p>It is an offence to:</p> <ul style="list-style-type: none"> • vote more than once at this election, unless you are voting on your own behalf and as a proxy for another person • vote as a proxy on behalf of more than four electors, of which no more than two may be domestic electors (a domestic elector is one who is not an overseas or service elector) • vote as a proxy for someone if you know that by law they are not allowed to vote 	
Please turn over	

Back of Card

<p>How to vote as a proxy At the polling station, tell the staff that you are a proxy for the person named on the front of this card. Show an accepted form of photographic identification for yourself. They will give you that person's ballot paper. If you need any help, just ask the staff.</p>	<p>The person you are proxy for can vote themselves if they wish – but only if you have not already voted on their behalf.</p>
<p>If you are away or cannot go to the polling station on [day] [date of poll]:</p> <ul style="list-style-type: none"> • You can apply to vote by post. The deadline for completed applications is 5pm on [day] [date of deadline]. • If you are given a postal vote, you or the person you are proxy for will not be able to vote in person at this election. • To find out how to apply, please contact us. 	<p>If you need any help, require information in another format or language or wish to find out if your polling station is accessible, please contact us. [insert helpline and other contact details including website]</p>
<p>Electoral fraud is a crime</p> <p>Issued by the Chief Electoral Officer.</p>	
<p>If undelivered return to: [insert return address]</p>	

SCHEDULE 3

Article 5(2)

Form 1

Proxy Paper

Local Council Election	
[insert name of District Council] District Council	
[insert name of District Electoral Area] District Electoral Area	
Name of Proxy	
Address of Proxy	
<p>You have been appointed as proxy for _____ (name of elector)</p> <p>who is qualified to be registered at (Qualifying address) _____</p> <p>to vote for them at *[Local Council/Parliamentary/Assembly] elections.</p> <p>Signature _____ (Electoral Registration Officer)</p> <p>Date _____</p> <p><i>* Delete whichever is inappropriate</i></p>	

1. This proxy paper gives you the right to vote as a proxy on behalf of the elector who is named above.
2. You may not vote as a proxy on behalf of more than four electors, of which no more than two may be domestic electors (a domestic elector is one who is not an overseas or service elector).
3. You may vote as proxy at the polling station allotted to the elector on whose behalf you are appointed. Shortly before polling day you will be sent a proxy poll card telling you where the polling station is. You do not need to take either the poll card or this paper with you to vote but it will save time if you do take the poll card with you.
4. If you cannot vote in person at the polling station, contact the helpline or visit our website.
5. If you have been appointed as a proxy on behalf of an elector who has an anonymous entry in the register, you can only vote by post. If you have not already been granted a postal vote, you should contact the electoral registration officer.

[Insert helpline and other contact details including website]

EXPLANATORY NOTE

(This note is not part of the Order)

This Order makes various changes to the rules governing local elections in Northern Ireland. Similar changes are made to the rules governing Parliamentary elections in a separate instrument (the Representation of the People and Recall Petition (Northern Ireland) (Amendment) Regulations 2023). Many of the changes in this Order are required as a result of changes to electoral law made by the Elections Act 2022 (the “2022 Act”).

Article 2 makes an amendment to paragraph 9(1) of Schedule 2 to the Local Elections (Northern Ireland) Order 1985 (S.I. 1985/454) (the “1985 Order”), to remove the requirement for an application for a proxy to provide details of the family relationship between the proxy and the person appointing them. This is required as a result of changes to the rules governing the number of persons for whom a proxy can act (see Schedule 4 to the 2022 Act).

Article 3 amends paragraph 12 of Schedule 2 to the 1985 Order to provide that where a person (including a proxy) applies for a postal vote and requests that their ballot papers are sent to an address which is different from the “normal address” used by the Chief Electoral Officer in Northern Ireland, the Chief Electoral Officer must send to that normal address a confirmation that the ballot papers will be sent to the requested address, or the notification that the application has been refused.

Article 4 inserts a new Schedule 2A into the Local Elections (Northern Ireland) Order 2010 (S.I. 2010/2977), which is about the disclosure of date of birth lists to the police (paragraph 2) and in response to a court order (paragraph 3). These two new paragraphs include restrictions on further disclosure, breach of which is a criminal offence, as set out in paragraph 4.

Article 5 and Schedules 1, 2 and 3 make changes to the forms used in local elections in Northern Ireland to reflect the changes made by the 2022 Act to the rules on the number of persons for whom a proxy may act and to the acceptable forms of voter identification. Article 6 is a transitional provision which requires a proxy paper form for a proxy appointment made before 5th March 2024 to reflect the fact that the new rules on proxy appointments do not yet apply.

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