

NORTHERN IRELAND (MISCELLANEOUS PROVISIONS) ACT 2006

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 1: Registration of Electors

Section 1: Power to make provision about anonymous registration

25. Section 10 of the [Electoral Administration Act 2006 \(c.22\)](#) (referred to in these Notes as “EAA”) provides for an elector, whose safety would be at risk if he or she were identifiable from the electoral registers, to apply to be registered anonymously. This provision of the EAA does not extend to Northern Ireland.
26. Section 84(1) of the [Northern Ireland Act 1998 \(c.47\)](#) enables provision to be made with respect to elections (but not the franchise) and boundaries in respect of district councils in Northern Ireland by Order in Council. Section 1 of this Act modifies section 84(1) to enable anonymous registration to be introduced in Northern Ireland in respect of district, Assembly, European and Parliamentary elections by such an Order. The anonymous registration provisions must correspond or be similar to provisions already contained in the EAA.
27. [Section 1](#) also contains a power to amend primary and secondary legislation where necessary to give effect to the new Northern Ireland anonymous registration provisions. Such a power is needed because the new provisions will need to differ in part from those contained in the EAA in order to take account of the different registration and anti-fraud measures in Northern Ireland.
28. An Order in Council made by virtue of section 1 can only be made after consultation with the Electoral Commission. It must be laid in draft before, and be approved by, both Houses of Parliament. It has the status of primary legislation for human rights purposes.
29. It is intended that the Order will define the criteria to be applied for eligibility for anonymous registration so that only genuinely vulnerable electors will be eligible. The number of people who will be eligible is not expected to be large.

Section 2: Abolition of annual canvass

30. This section amends the [Representation of the People Act 1983 \(c.2\)](#) (“the 1983 Act”) so as to remove the legal requirement to conduct an annual canvass in Northern Ireland. The last annual canvass will take place during the autumn of 2006.
31. The Chief Electoral Officer for Northern Ireland, as the registration officer for all constituencies in Northern Ireland, has responsibility for maintaining the electoral register for Northern Ireland. Section 2 inserts a new section 10(1A) into the 1983 Act, which sets out the CEO’s duty to conduct periodic canvasses in accordance with new provisions inserted into the 1983 Act by section 3, described below.

Section 3: Timing of canvass

32. This section inserts new section 10ZA into the 1983 Act. The new section provides for a canvass to take place in 2010 and every tenth year following 2010. However, the Secretary of State may make an order cancelling the 2010 canvass if the following conditions are met: first, the CEO has made a recommendation by 15th April 2010 against a canvass being conducted in that year; and second, the Secretary of State is satisfied that the public interest does not require a canvass. Both the CEO and the Secretary of State, in making their decisions, must have reference to the registration objectives set out in new provisions inserted by section 4. An order cancelling the 2010 canvass may only be made if it is laid in draft before, and approved by, both Houses of Parliament.
33. The section provides that if no canvass is held under the new provisions by the end of 2015, a canvass must be held in 2016.
34. In intervening years (which are all years other than: 2010; every tenth year after 2010; and, if no canvass is held before the end of 2015, 2016) a canvass may be held provided the following conditions are satisfied. The first condition is that the CEO makes a recommendation to the Secretary of State, by 15th April of that year, in favour of a canvass being conducted for the purpose of meeting the registration objectives. The second condition is that the Secretary of State is satisfied that the public interest requires a canvass.

Section 4: The relevant registration objectives

35. **Section 4** inserts new section 10ZB into the 1983 Act. This new section sets out the relevant registration objectives. These are the objectives that the CEO must aim to meet in maintaining the electoral register in Northern Ireland. These objectives are to ensure, so far as reasonably practicable, that:
- everyone who is entitled to be registered is on the register;
 - no-one who is not entitled to be registered is on the register; and
 - all the required information in relation to individuals contained on the register is correct.
36. The “required information” is an individual’s: name; qualifying address; date of birth; national insurance number (or a statement that they do not have one); and signature. However, the section allows for the requirement for a person’s signature to be dispensed with in the event that a CORE (co-ordinated on-line record of electors) scheme, allowing for electronic registration of electors across the United Kingdom, is implemented. CORE schemes are provided for by the EAA.

Section 5: Publication and alteration of registers

37. This section replaces section 13(1) of the 1983 Act. It retains the current default requirement that a revised and updated register must be published on or before 1st December in a year in which a canvass has been held. For years where no canvass is held in Northern Ireland, it introduces a default requirement that the revised register in Northern Ireland must be published on 1st December.
38. However, whether or not a canvass is held, the Secretary of State has a power to prescribe a later publication date in regulations.
39. In the amendment of section 13 made by this section (and in the amendments made by sections 6 and 7) “prescribed” means prescribed by regulations (see sections 201 and 202 of the 1983 Act).

Section 6: Alteration of registers: pending elections

40. Currently, a person may only vote in an election if they appear on the register on the date the nominations for candidates for the election close. This can mean that the effective deadline for registration is many weeks before the poll. Section 6 will allow electors to register closer to the date of the poll. This measure is broadly similar to that in section 11 of the EAA, and will allow electors not on the register to apply in time to meet a new “late registration” deadline. This deadline will be set in regulations made under this section; it is anticipated that it will be set at eleven days before the poll.
41. This later deadline means the CEO will not have sufficient time to make the normal checks on the information provided by the applicant before polling day. In order to ensure this new facility does not increase the risk of fraud the section provides that individuals who apply for “late registration” will have to provide additional material supporting the application and will not be allowed an absent vote. The specific material to be provided will be specified in regulations, but it is intended to be aimed at seeking proof of residence.
42. The CEO must publish a notice specifying any consequent late alterations to the register on the “appropriate publication date”, which is defined in section 13B(5) of the 1983 Act (attracted by subsection (13) of the new section 13BA inserted by the section) as “the sixth or fifth day before the date of the poll, as the registration officer may determine”. This notice is used by polling officers to verify those entitled to vote and can also be used by political parties for canvassing.
43. The section also provides for alterations to the register as a result of a court decision, or a clerical error following a representation to the CEO, to be made up to a prescribed time on the day of poll (whereas currently the deadline is the fifth day before the poll). The CEO must publish a notice forthwith if any such alterations are made. The deadline for any alterations to correct clerical errors that do *not* follow a representation made to the CEO remains the fifth day before the poll, and notice of these alterations must be issued on the appropriate publication date.

Section 7: Data collection

44. This section amends Schedule 2 to the 1983 Act, which details the types of provision which may be contained in regulations as to registration. It enables regulations to be made that give the CEO the power to obtain information from public authorities to help him to meet the relevant registration objectives. This is intended to help the CEO to track changes to the relevant circumstances of individuals on the electoral register (such as their name and address); to identify people who are not on the register but may be entitled to be; and to track the point at which “attainers” (individuals aged 16 or 17) will become eligible to be registered. The CEO will then approach these individuals to invite them to update their entry, or to register.
45. This section makes clear that data can only be provided to the CEO under the regulations for the purpose of assisting him to meet the relevant registration objectives.
46. There are safeguards on the onward transmission of this data. The regulations may only permit the data to be passed to a third party for the purpose of the registration objectives or criminal or civil proceedings. The section also enables the regulations to make it an offence (punishable on summary conviction by a fine of up to £5000) to disclose this information in breach of the safeguards.