

POLITICAL PARTIES AND ELECTIONS ACT 2009

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 4: Electoral Registration

Section 28: Establishment of corporation sole to be CORE keeper

132. Part 1 of the Electoral Administration Act 2006 (“the 2006 Act”) contains provisions for the establishment, by order made by the Secretary of State, of one or more Co-ordinated On-line Record of Electors (“CORE”) schemes. A CORE scheme will be run by a CORE keeper designated by the Secretary of State and will consolidate into a centralised record electoral registers and related information maintained by the electoral registration officers (“EROs”) in the area covered by the scheme.
133. *Subsection (3)* of section 28 inserts new section 3A into the 2006 Act, which enables the Secretary of State to establish a new corporation sole to be the CORE keeper. It also provides the Secretary of State with the power to establish, by order, a panel for the purpose of advising the corporation on such matters as the corporation may refer to it or which the panel chooses to consider of its own motion. Subsection (3)(h) of the new section enables the order to require the corporation to consult the advisory panel in respect of particular matters or in particular circumstances; these might include, for example, issues relating to data sharing and security policy.
134. New section 3A(3) provides for necessary matters of detail in relation to the corporation and the panel to be set out in the order. New section 3A(4) enables the order to bring the corporation within the remit of the Public Records Act 1958 and Parliamentary Commissioner Act 1967 by adding entries to those Acts. It also enables the order to add entries to the House of Commons Disqualification Act 1975 and Northern Ireland Assembly Disqualification Act 1975 so as to disqualify from election to the House of Commons or Northern Ireland Assembly the office-holder, directors, deputies, other officers or staff of the corporation or members of the panel.
135. Provision is made in new section 3A(5) for the Secretary of State to make payments to the corporation to enable it to fulfil its functions subject to such conditions that the Secretary of State may consider to be appropriate. These may include, for example, a requirement for the corporation not to incur expenditure above a specified threshold without the consent of the Secretary of State or to follow specified procedures in relation to its costs and expenditure.
136. New section 3A(6) specifies that the corporation is not to be regarded as part of the Crown or, therefore, of the Government; it will be a non-departmental public body. The office-holder, directors, deputies, other officers and staff of the corporation and members of the panel will not be servants or agents of the Crown, nor will they have the Crown’s status, immunity or privileges.

137. *Subsection (4)* of section 28 amends section 6(1) of the 2006 Act to provide that the power to establish the new corporation sole is exercisable by statutory instrument. The order will be subject to the affirmative resolution procedure, thus requiring approval by both Houses of Parliament. *Subsection (4)* also introduces new section 6(6) into the 2006 Act to require the Secretary of State to consult the Information Commissioner and the Electoral Commission before making the order.
138. Section 1(10) of the 2006 Act provides that the person designated as the CORE keeper must be a “public authority”. *Subsection (2)* of section 28 widens this to include a new corporation sole established for the purpose.

Section 29: Use of CORE information

139. This section makes a number of amendments to section 2 of the 2006 Act regarding the use of CORE information. Section 2(2) of the 2006 Act provides that the CORE keeper will be bound by the same regulations governing the supply of and access to electoral registers and other documents that apply to EROs. While the application of these regulations to the CORE keeper does not expand the range of bodies who are entitled to access the material or the purposes for which it may be used, the CORE keeper will be able to supply information on a national scale whereas EROs can do so only in relation to the area for which they are responsible. In light of this, specific arrangements may be required where material is to be supplied by the CORE keeper. Accordingly, *subsection (2)* of section 29 supplements the Secretary of State’s power in section 2(3) of the 2006 Act to modify the application of the regulations to the CORE keeper so that modifications can provide for the supply of material by a CORE keeper to be subject to conditions or restrictions which do not apply in the case of an ERO or which differ from those that apply in the case of an ERO.
140. Section 3 of the Juries Act 1974 provides that every ERO must, on publication, supply copies of the electoral register to the body responsible for summoning jurors. *Subsection (3)* of section 29 creates a power for a CORE scheme to amend this section so as to instead require the CORE keeper to supply copies of the electoral register for jury summoning purposes at such times as are specified in the CORE scheme. The amendment also enables the power to require EROs to continue to supply the register for this purpose but only in response to a request from the relevant body.
141. The amendments in *subsection (4)* of section 29 extend the circumstances of which the CORE keeper is required to inform an ERO in accordance with section 2(5) of the 2006 Act. Their effect is that the CORE keeper must inform an ERO where more than a specified number of postal votes are requested in respect of the same address, and where the same person is appointed as, or votes as, proxy for more than two electors.
142. *Subsections (5)* and *(7)* of section 29 extend the order-making powers of the Secretary of State in relation to the establishment of a CORE scheme. *Subsection (5)* inserts new subsection (6A) into section 2 of the 2006 Act, which provides that where the CORE keeper informs an ERO of the circumstances in section 2(6) of the 2006 Act or of any suspicions that the CORE keeper has concerning the commission of an offence under the 1983 Act, or other impropriety, a CORE scheme may require the ERO to respond by taking such steps, if any, as appear to be appropriate to the ERO. It also provides that a CORE scheme may require an ERO to notify the CORE keeper of the steps taken, or of the reasons for not taking any. The amendments in *subsection (7)* enable the CORE scheme to authorise an ERO to share information with another ERO when responding to information provided by the CORE keeper.
143. *Subsection (6)* enables the CORE keeper to provide an ERO with such information as the CORE keeper thinks is relevant about suspicions that the CORE keeper has concerning the commission of an offence under the 1983 Act or other impropriety.
144. *Subsection (8)* enables a CORE scheme to authorise the CORE keeper to supply information to the Electoral Commission. The intention is to ensure that the CORE

keeper can furnish the Electoral Commission with information relevant to the performance of the Commission's functions. This may include, for example, statistical reports regarding registration patterns or regarding potential anomalies identified in the registers. The power could also be used to enable the CORE keeper to advise the Commission where a particular ERO has not complied with a requirement in a CORE scheme to notify the CORE keeper of the steps taken in response to information received from the CORE keeper about, for example, suspected absent voter fraud or other improprieties.

Section 30: Voluntary provision of identifying information

145. **Section 30** contains provisions requiring registration officers, after 1 July 2010, to take steps to collect identifying information from electors for the purpose of improving the accuracy of the electoral register. At this stage it will not be compulsory for electors to provide such information.
146. *Subsection (1)* specifies that the identifying information to be collected is the elector's signature, date of birth and National Insurance ("NI") number (or an indication that the person does not have a NI number). Under *subsection (2)*, where a person is prevented from providing a signature because of a disability or inability to read they can instead give an indication confirm that that is the case.
147. *Subsection (3)* determines the role of registration officers in obtaining this information as part of their responsibility to maintain the registers. A registration officer is required to take steps to obtain identifying information from eligible electors under their duty to take all necessary steps to register eligible electors and when conducting an annual household canvass, including determining applications for registration.
148. *Subsection (4)* states what compulsory steps should be taken by the registration officer as a result of *subsection (3)*. In taking those steps it must be explained that there is no compulsion on the elector to provide the requested information. Furthermore, the reasons for collecting the information should be explained: namely that identifying information can help to improve the accuracy of the registers.
149. *Subsection (5)* requires that a record be kept by the registration officer showing the information that has been collected during the process of maintaining registers, conducting canvasses and determining applications for registration.
150. *Subsection (6)* gives a timeframe for the application of these duties: registration officers will not be required to collect identifying information before 1 July 2010.

Section 31: Regulations amending or supplementing section 30

151. **Section 31** provides for the Secretary of State, after consulting the Electoral Commission, to make regulations by statutory instrument either to amend or to supplement the provisions in relation to the collection of identifiers set out in section 30, so as to secure the registration objectives.
152. *Subsection (1)* gives powers for the Secretary of State to amend, by regulations, subsection (1) or (2) of section 30 in relation to identifying information: the signature, date of birth and NI number of electors, or indications to that effect for those without NI numbers or those who cannot give a signature. Consequently, the Secretary of State may also make other amendments to that section that seem desirable or necessary as a result of using that power.
153. *Subsection (1)* also gives the Secretary of State the power to make Regulations to supplement section 30. *Subsection (2)* gives further details of the kind of provision that may be made in such regulations. Of particular note is that the regulations may enable disclosure of NI information by the authority responsible for managing NI numbers to EROs, or the CORE Keeper. Regulations may only enable such information to be shared. The purpose of requesting this information is to ensure the accuracy of the

register, or whether an individual is entitled to be registered, and for checking that an electoral register is accurate, or whether a person is entitled to be registered on it.

154. *Subsection (3)* sets out the terms of onward disclosure for a registration officer or CORE keeper: identifying information may only be disclosed for the purposes of checking the accuracy of the register or a person's entitlement to be registered or for the purposes of criminal or civil proceedings. In addition, information may be shared by an ERO with a person to whom the ERO has delegated functions, such as members of the ERO's administrative team.
155. *Subsection (4)* makes it an offence to disclose information outside the terms of *subsection (3)* and sets out the relevant penalties.
156. *Subsection (5)* provides that the Regulations may contain transitional or saving provision.
157. *Subsection (6)* states that the authority held by the Secretary of State to make Regulations to amend or supplement section 31 is exercisable under secondary legislation by statutory instrument. The relevant procedure for the first set of regulations is the affirmative resolution procedure (see *subsection (9)*). Any subsequent regulations will be subject to the negative resolution procedure (*subsection (10)*).
158. *Subsection (7)* provides that the Secretary of State is required to consult with the Electoral Commission prior to making regulations under this section. In addition, amendments to the type of identifying information to be requested from electors (as found in *subsection (1)* and *subsection (2)* of section 31) must be referred to the Electoral Commission for their views on whether the registration objectives would be met if it became compulsory for electors to provide identifying information to register.
159. *Subsection (8)* defines the registration objectives for the purposes of this Part. It outlines the priorities of accuracy and completeness in the register: those who are entitled to be registered should be registered; those who are not entitled should not be registered; and no information relating to a registered person should be false.

Section 32: Report by Electoral Commission on provision of identifying information

160. **Section 32** requires the Electoral Commission both to monitor the operation of the section 30 arrangements (and any regulations made under section 31) and to submit an annual report to the Secretary of State. The outcome of the 2014 annual report must contain a recommendation which will help determine whether voluntary provision of identifying information by electors should become obligatory.
161. *Subsection (1)* sets out the Electoral Commission's monitoring role.
162. *Subsection (2)* requires that the Electoral Commission produce an annual report, beginning one calendar year after that in which the section 30 duties first arise. The Commission are required to submit the report to the Secretary of State and to publish it in whatever way it sees fit.
163. *Subsection (3)* elaborates on the scope of the report by the Commission, requiring that they assess the adequacy of the electoral registration system in Great Britain, especially concerning the effectiveness of registration officers in meeting the registration objectives. Furthermore, the Commission must suggest any possible changes to the system in order to meet those objectives should it become compulsory for electors to provide identifying information.
164. *Subsections (4)* and *(5)* set out further requirements for the 2014 report, in addition to the requirements set out in *Subsection (3)*. In 2014, the Commission should assess whether it would help or hinder the achievement of the registration objectives to make it compulsory for electors to provide identifying information. The Commission report

must also make a recommendation as to whether Great Britain is ready to move to a system where voters must provide identifying information to register. The report should be submitted to the Secretary of State by 31 July 2014 and should subsequently be laid before Parliament as soon as possible by the Secretary of State.

165. *Subsection (6)* details conditions under which obligatory provision of identifying information, as provided for in section 33, should be brought into force: namely, that the Commission's report recommends that the provision of identifying information by electors should be made compulsory, and that the recommendation receives Parliamentary approval in each House.
166. *Subsections (7) and (8)* explain the procedure to be followed should either the 2014 report not contain a recommendation that the Government make provision of identifying information by electors obligatory, or if the report contains a recommendation that it should become obligatory but Parliamentary approval is not received. Should either situation arise, the Secretary of State must require the Electoral Commission to submit an additional report under this section, addressing the topics laid down in *subsection (4)*. The Secretary of State must, within 12 months, inform the Commission that he or she requires another report. Once the requirement is imposed the Commission will have up to a further two years from the date on which the requirement is imposed to deliver the report. If the report did not recommend that the collection of identifying information be made obligatory the 12 month period mentioned above is to be calculated by reference to the date on which the report which contains either recommendation was submitted. If the report did recommend that it become obligatory but that recommendation did not receive parliamentary approval the 12 month period runs from the date when Parliament indicated that it would not approve it.
167. *Subsection (9)* clarifies that, should any further report be required after 2014, the same procedure applies as applied to the 2014 report.
168. *Subsection (10)* is intended to aid in the Electoral Commission's production of the annual reports. So that the reports contain a full picture of the health of the registration system, registration officers are required to assist the Commission by providing them with information as they produce the annual reports.

Section 33: Obligatory provision of identifying information

169. **Section 33** deals with what would happen should the conditions laid out in section 32 be met, and a decision taken to make obligatory the provision of identifiers by electors in the United Kingdom. The effect of this section would be to extend those provisions made in Northern Ireland (by section 1 of the Electoral Fraud (Northern Ireland) Act 2002) to the whole of the United Kingdom.
170. *Subsections (2) to (11)* set out how the 1983 Act is amended in order to introduce obligatory provision of identifying information across the United Kingdom.
171. *Subsection (3)* amends provisions in section 10 of the 1983 Act concerning prescribed forms or forms to be used to the same effect, and the extent to which they apply for Northern Ireland and the whole of the United Kingdom. References to Northern Ireland and the Chief Electoral Officer for Northern Ireland are changed so as to apply to the whole of the United Kingdom and not just Northern Ireland. The subsection also inserts provision for Regulations allowing those without NI numbers to provide alternative evidence to identify themselves. The registration officer should keep a record showing the identifying information that has been taken.
172. *Subsection (4)* amends the relevant registration objectives of Section 10ZB of the 1983 Act, omitting references to Northern Ireland so as to extend the provisions which were previously in force there to the whole of the United Kingdom. These concern the fact that Northern Ireland has one Chief Electoral Officer, so in order to make the section

apply to the whole of the United Kingdom, this must be replaced by “the registration officer concerned”.

173. *Subsection (5)* replaces references regarding addresses and canvass forms that are Northern Ireland-specific with references that can apply to the whole of the United Kingdom. The subsection also sets out the requirement in Regulations for other evidence to be provided in the event that an elector does not have an NI number. The registration officer must also keep a record of all information obtained in applications. Northern Ireland previously had a different canvass form to the rest of the United Kingdom. References in the 1983 Act to this form not being received are now removed as the introduction of the provision of identifiers by electors means there is no need to distinguish between Northern Ireland and the rest of the United Kingdom.
174. *Subsection (6)* amends the 1983 Act so far as it concerns alteration of registers that relate solely to Northern Ireland. Currently subsections (2A) to (2D) of section 13A of the 1983 Act provide for collection of identifiers from electors applying in respect of an address in Northern Ireland. *Subsection (6)(c)* transfers to registration officers powers which previously rested with the Chief Electoral Officer for Northern Ireland, allowing registration officers to dispense with the requirement for a signature from those who cannot make one due to incapacity or illiteracy. For those who do not have an NI number, *subsection (6)(d)* states that the registration officer may require additional evidence and a record must be kept of information obtained.
175. *Subsection (7)* makes minor and technical changes to section 13BB of the 1983 Act (as inserted by section 23 of this Act) which covers elections falling within the canvass period.
176. *Subsection (8)* relates to the provision of false information and amends section 13D to recognise that the provision applies to all registration officers, not just the Chief Electoral Officer for Northern Ireland.
177. *Subsection (9)* has the effect that any Regulations made under section 10(4C), 10A(1C) or 13A(2C) of the 1983 Act by the Secretary of State regarding those voters who do not have NI numbers must be referred to the Electoral Commission to seek their views as to whether the Regulations would help or hinder the registration objectives.
178. *Subsection (10)* inserts provisions into Schedule 2 to the 1983 Act, in order to enable regulations made under section 53 of that Act to give a power to the authority holding the NI number database to release NI information to a registration officer or CORE keeper. This may only be done to assist the registration objectives, checking accuracy of the register or an elector’s entitlement to vote and cannot be released to a third party by the registration officer or CORE Keeper except for the purposes of criminal or civil proceedings. In addition, information may be disclosed by a registration officer to a person to whom the officer may delegate functions. The authority holding the NI numbers is permitted to make charges to cover reasonable expenses in complying with this request. Furthermore, sub-paragraphs within the Schedule which currently relate only to Northern Ireland are removed, so that the provisions apply to the whole of the United Kingdom.
179. *Subsection (11)* provides that anyone who discloses information in breach of the terms set out in the subsection is guilty of an offence triable either way and punishable by imprisonment or a fine, or both.

Section 34: Provision supplementing section 33

180. **Section 34** deals with provisions supplementing section 33. It gives the Secretary of State power to make amendments to various sections of the 1983 Act relating to the obligatory collection of identifiers. It sets out the procedure for making supplementary provisions or amendments, including consulting the Electoral Commission to seek their

views and laying the statutory instrument before Parliament to gain the affirmative resolution of both Houses.

181. *Subsection (1)* relates to section 10A(5A) of the 1983 Act, which allows for names to be removed from the register if an elector's registration form does not contain the identifying information required to be provided once collection becomes obligatory, or if the registration officer is not satisfied with the information that has been provided. When section 33 comes into effect, it will not be possible to remove names from the register under section 10A (5A) of the 1983 Act until the conclusion of the third canvass to be concluded after the commencement of section 33. This allows for electors who fail to provide identifying information to remain on the register for two years after it becomes obligatory to provide identifying information without having provided it.
182. *Subsection (2)* recognises that moving to the obligatory period of providing identifying information will make obsolete the provisions relating to the voluntary period. Orders bringing section 33 into force may thus repeal any provisions from sections 30, 31 and 32, and amendments may be made to any enactment that is consequential on the coming into force of section 33.
183. *Subsection (3)* makes provision for the Secretary of State to amend the sections of the 1983 Act relating to the collection of identifying information as amended by this Act, and for further amendments to be made to the 1983 Act that are necessary as a consequence of those amendments.
184. *Subsection (4)* states that Regulations under subsection (3) may make different provision for different purposes or different areas, and may make transitional or saving provision.
185. *Subsection (5)* explains that the Secretary of State is given the powers to make regulations under subsection (3) in the form of secondary legislation exercisable by statutory instrument.
186. *Subsection (6)* requires the Secretary of State to consult the Electoral Commission before making any regulations under subsection (3) and to seek their views as to whether the proposed provision in those regulations would help or hinder the achievement of the registration objectives where any amendment made by the regulations is to the provisions in the 1983 Act which relate to the nature of identifying information.
187. *Subsection (7)* states that any regulations which seek to amend either any enactment consequential to the coming into force of section 33 of this Act, or the provisions referred to in subsection (3), are to be subject to the affirmative resolution procedure.

Section 35: Schemes for provision of data to registration officers

188. **Section 35** contains provisions empowering the Secretary of State to create, by order, a scheme which requires a public or local authority to supply a registration officer with data which they can use for the purpose of maintaining a complete and accurate electoral register and ensuring that any other information they hold on electors is accurate.
189. *Subsection (1)* provides that the Secretary of State may create an order, referred to as a scheme, which will authorise or require specified persons to provide a registration officer with information from their records, which the registration officer may use for the purposes set out in subsection (2) of the section.
190. *Subsection (2)* sets out the purposes for which the registration officer may use the information provided under a scheme. These purposes include ensuring that their records are accurate, and that all those who are eligible to be registered are included in the register, as well as determining whether the objectives of the scheme are being met.
191. To ensure the scheme can be tailored to the specific circumstances of the registration officer or any public authority affected by the scheme, subsection (3) provides that a

scheme may authorise information to be provided at specified times or in specified circumstances.

192. *Subsection (4)* sets out those persons that may be required to provide information under a scheme, namely local or public authorities and/or persons undertaking functions or services on behalf of an authority.
193. *Subsection (5)* allows the Secretary of State, to create more than one data sharing scheme in the same statutory instrument.
194. *Subsection (6)* provides that an order under the new power, will have the effect of removing all barriers to data sharing, statutory or otherwise, that might otherwise have obstructed the establishment of the scheme. It is anticipated that those sharing data under the auspices of any scheme made by order will have regard to the effect of Article 8 of the ECHR, the common law of confidence or any relevant provisions of the Data Protection Act 1998.
195. *Subsection (7)* places restrictions on the onward disclosure by a registration officer of data provided under a scheme. The registration officer may share the data with a person to whom the officer may delegate his or her functions, or to another person where that is for the purposes set out in subsection (2) or is for the purposes of civil or criminal proceedings. A person who breaches these restrictions is guilty of an offence and will be liable to a fine on summary conviction.
196. *Subsection (8)* provides that a scheme order contain incidental, supplemental, transitional or saving provision. This is to ensure that the order can be tailored appropriately to the individual circumstances of any scheme.
197. *Subsection (9)* provides that a scheme can only be made following the affirmative resolution procedure.

Section 36: Schemes under section 35: proposals, consultation and evaluation

198. **Section 36** creates a number of procedural steps which must be followed before an order under section 35 can be made to create a scheme.
199. *Subsection (1)* provides that a scheme can only be created where a registration officer has submitted a proposal to the Secretary of State for consideration and the Secretary of State implements that proposal or does so with modifications agreed to by the registration officer.
200. *Subsection (2)* provides that before making an order, the Secretary of State must consult the Electoral Commission, the person who authorised or required by the order to provide data to the registration officer and the Information Commissioner.
201. *Subsection (3)* requires that each order must include a specific evaluation date, by which the Electoral Commission must prepare a report on that scheme.
202. *Subsections (4) and (5)* provide the matters which must be included in the report, including a description of the scheme, and an assessment of the matters set out in subsection (5) and any other matters which are specified in the order. The report will establish the extent to which the scheme has enabled the registration officer to enhance the accuracy and completeness of his or her register, as well as whether there were any issues around administration, time, and costs. It will also enable a better understanding as to whether there were any objections to the scheme, for example from members of the public.
203. *Subsection (6)* provides that the registration officer must give the Electoral Commission such assistance as they may reasonably require while preparing the report and that on receipt of the report from the Electoral Commission, the registration officer must publish it as they think appropriate.

*These notes refer to the Political Parties and Elections Act
2009 (c.12) which received Royal Assent on 21 July 2009*

Section 37: Meaning of expressions relating to registration

204. **Section 37** provides a number of definitions for terms used in Part 4.