

**EXPLANATORY MEMORANDUM TO**  
**THE REPRESENTATION OF THE PEOPLE (NORTHERN IRELAND)**  
**(AMENDMENT) REGULATIONS 2018**

**2018 No. 331**

**1. Introduction**

- 1.1 This explanatory memorandum has been prepared by the Northern Ireland Office and is laid before Parliament by Command of Her Majesty.

**2. Purpose of the instrument**

- 2.1 These Regulations amend the Representation of the People (Northern Ireland) Regulations 2008 (S.I. 2008/1741) (“the RPR 2008”). These amendments relate to the anonymous registration scheme with changes aiming to improve access to the scheme for those whose safety is at risk by appearing on the electoral register.

**3. Matters of special interest to Parliament**

*Matters of special interest to the Joint Committee on Statutory Instruments*

- 3.1 None.

*Other matters of interest to the House of Commons*

- 3.2 This entire instrument applies only to Northern Ireland.

**4. Legislative Context**

- 4.1 These Regulations are part of a package of statutory instruments that ensure the same changes to anonymous registration are introduced across the United Kingdom. The Regulations will make provision to improve access to the anonymous registration scheme in respect of the registers of Parliamentary, Northern Ireland Assembly, and local government electors in Northern Ireland.
- 4.2 These Regulations will be laid before Parliament alongside the draft Representation of the People (England and Wales) (Amendment) Regulations 2017, which will make corresponding provisions to improve access to the anonymous registration scheme, and will make wider changes to the registration scheme in respect of the register of Parliamentary and local government electors in England and Wales; and the draft Representation of the People (Scotland) (Amendment) (No.2) Regulations 2017, which improve access to the anonymous registration scheme and enhance the wider registration scheme in respect of the register of Parliamentary electors in Scotland.
- 4.3 Legislative competence in respect of local elections in Scotland and Scottish parliamentary elections was devolved to the Scottish Parliament by the Scotland Act 2016. Therefore, the changes in relation to anonymous registration and the wider registration system in respect of the register of local government electors in Scotland will be laid by Scottish Government before Scottish Parliament.
- 4.4 The anonymous registration scheme is set out in sections 9B and 9C of the Representation of the People Act 1983 and, in relation to Northern Ireland, in the RPR 2008. An application for anonymous registration must be accompanied by evidence,

the form of which is specified in the RPR 2008. These Regulations make changes in relation to the evidence which is required under the RPR 2008 to improve access to the scheme.

- 4.5 These Regulations will not make provision for wider changes to the registration scheme in Northern Ireland. The changes to be made in addition to the anonymous registration provisions in respect of England, Wales and Scotland are either already in place in Northern Ireland or not appropriate given the differences in the Northern Ireland registration system.

## **5. Extent and Territorial Application**

- 5.1 The extent of this instrument is Northern Ireland.  
5.2 The territorial application of this instrument is Northern Ireland.

## **6. European Convention on Human Rights**

- 6.1 Lord Duncan, Parliamentary Under-Secretary of State for the Northern Ireland Office has made the following statement regarding Human Rights:

“In my view the provisions of the Representation of the People (Northern Ireland) (Amendment) Regulations 2018 are compatible with the Convention rights.”

## **7. Policy background**

### *What is being done and why*

- 7.1 The Representation of the People Act 1983 was amended by section 10 of the Electoral Administration Act 2006 to insert sections 9B and 9C. These sections and regulations 38A to 38E of the RPR 2008 provide for the anonymous registration scheme. Anonymous registration was introduced in Northern Ireland in 2014.
- 7.2 The scheme requires that an application for anonymous registration is accompanied by evidence that proves the safety of the applicant, or other named persons in the applicant’s household, would be at risk if the register contained the applicant’s name or address. As specified in the RPR 2008, the evidence accepted is either one of the court orders or injunctions listed in regulation 38C, or an attestation by a “qualifying officer”, as defined in regulation 38D.
- 7.3 When the scheme was introduced it was envisaged that those looking to register anonymously would include victims or witnesses of certain types of crime with an immediate risk to their safety. This was balanced with the public nature of the electoral roll as a key aspect of our democracy and transparency around voting. Consequently, the threshold of evidence required for an application to anonymous registration was set quite high.
- 7.4 During the summer of 2016, the Government received representations that the anonymous registration scheme was not sufficiently accessible to some who are entitled to use it, as they are currently unable to produce the evidence required under regulations 38C or 38D of the RPR 2008. This includes survivors of domestic abuse whose safety can become at risk if their details are contained in the electoral register. However, the changes will increase accessibility of anonymous registration for all electors, not just domestic abuse survivors.

- 7.5 Regulation 2 of these Regulations both increases the accessibility of the anonymous registration scheme for those who genuinely need to use it through the provision of appropriate evidence, while continuing to respect the integrity of the electoral register.
- 7.6 These Regulations make changes extending the type of evidence accepted as proof that an individual's safety would be at risk if they appeared on the electoral register.
- 7.7 The first type of change relates to those who are qualifying officers able to provide attestations. In regulation 38D of the RPR 2008 the seniority required for a police attestation is lowered from superintendent to inspector. As domestic abuse leads in their local areas, inspectors are frequently in contact with survivors and well qualified to assess the level of risk to an individual's safety. The level of inspector is suitably senior that the officer is highly trained and able to attest fully understanding the responsibility they are being given. Electoral Registration Officers, considering the application for anonymous registration, are able to check their credentials on the relevant databases.
- 7.8 In regulation 38D of the RPR 2008, the list of qualifying officers that can act as attestors is expanded to include medical and healthcare professionals registered with the General Medical Council (GMC) or Nursing and Midwifery Council (NMC). The nature of work conducted by medical and healthcare professionals means they are frequently in contact with survivors of domestic abuse and well qualified to assess the level of risk to an individual's safety. As registered practitioners they meet UK professional standards and Electoral Registration Officers are able to check their credentials on the relevant databases.
- 7.9 Finally, in regulation 38D of the RPR 2008, the list of qualifying officers that can act as attestors is also expanded to include refuge managers in the list of qualifying officers able to act as attestors. This will ensure that all individuals who are resident in a refuge have easy access to an individual who can attest to their safety being at risk. Refuge managers are specialists in their field and well placed to attest whether an individual's safety is at risk. As they are in direct and sustained contact with domestic abuse survivors, they are approachable for those looking to use the scheme, therefore helping to increase the accessibility. In practice, an attestation from a refuge manager should show the name of the refuge, the local authority, and the broad geographical region it covers. The Electoral Registration Officer can then confirm that the refuge is registered on the 'Routes to Support' directory, a UK-wide online database of domestic abuse services. The Electoral Commission will be responsible for producing guidance to also encourage refuge managers to include direct contact details so the Electoral Registration Officer can contact them if required.
- 7.10 The second type of change relates to the court orders that can be supplied as evidence. In Regulation 38C of the RPR 2008, the list of court orders accepted as evidence is expanded to include Domestic Violence Protection Orders made under the Crime and Security Act 2010 and the Justice Act (Northern Ireland) 2015, and Female Genital Mutilation Protection Orders made under the Female Genital Mutilation Act 2003. Domestic Violence Protection Orders are not yet in force in Northern Ireland but once in force they will be accepted as evidence. This updates the evidentiary requirements to reflect that new and relevant orders have been added to the statute book since the design of the anonymous registration scheme.

### ***Consolidation***

- 7.11 There are no plans to consolidate the RPR 2008.

## **8. Consultation outcome**

- 8.1 For the anonymous registration changes a policy statement was published in March 2017 for public comment. The policy statement can be viewed here (<https://www.gov.uk/government/news/government-commits-to-helping-survivors-of-domestic-abuse>). The Government received 12 formal responses to this consultation from a range of organisations including: representative bodies for medical professionals, domestic violence and abuse support organisations, electoral administrators and their representative bodies and in Great Britain local authorities. The Government also consulted the relevant representative bodies and domestic violence and abuse support organisations in Northern Ireland. All responses were supportive of the changes suggested. The response to policy statement is available here (<https://www.gov.uk/government/publications/a-democracy-that-works-for-everyone-survivors-of-domestic-abuse-response-to-policy-statement>).
- 8.2 These Regulations have also undergone formal consultation with the Electoral Commission who were supportive of the changes and raised only a few concerns. The Electoral Commission had concerns about how widely the definition of a refuge manager may apply, and whether it could be interpreted to include all workers employed at a refuge, rather than just the ‘manager’. Their concerns were addressed through a tightening of this definition. The Chief Electoral Officer for Northern Ireland was formally consulted on the draft regulations for Northern Ireland and was fully supportive.

## **9. Guidance**

- 9.1 The Electoral Commission are responsible for producing guidance to electoral administrators and attestors for these changes. The Government are working closely with the Electoral Commission to ensure the guidance is produced in collaboration with the representative bodies of the attestors. The guidance on anonymous registration measures will be published ahead of the May 2018 local elections in England.

## **10. Impact**

- 10.1 There is no impact on business, charities or voluntary bodies.
- 10.2 There will be a minimal monetary and non-monetary impact on public sector organisations.
- 10.3 Following a screening process under section 75 of the Northern Ireland Act 1998, a full equality impact assessment has not been prepared for this instrument. The screening document will be available as part of the NIO Equality Scheme six monthly update at [www.nio.gov.uk](http://www.nio.gov.uk)

## **11. Regulating small business**

- 11.1 The legislation does not apply to activities that are undertaken by small businesses.

## **12. Monitoring & review**

- 12.1 The changes to the anonymous registration scheme delivered through these Regulations are intended to make the scheme more accessible to those escaping domestic violence. Success will be shown by an increase in the number of anonymous

entries on the electoral register and positive feedback from the Chief Electoral Officer and Women's Aid Northern Ireland.

- 12.2 The Northern Ireland Office will, alongside the Chief Electoral Officer for Northern Ireland, review take-up figures for the anonymous registration scheme for Northern Ireland after twelve months and conduct an internal review of both the statistics and any representations received from stakeholders and report these to the Secretary of State for Northern Ireland.

### **13. Contact**

- 13.1 Contact Katherine Herrick, Head of Elections Policy, Constitution and Rights Group at the Northern Ireland Office

Telephone: 0207 210 6483 or email: [katherine.herrick@nio.gov.uk](mailto:katherine.herrick@nio.gov.uk) can answer any queries regarding the instrument.