

Draft Order laid before Parliament under section 201(2) of the Representation of the People Act 1983 and section 96(2)(b) of the Northern Ireland Act 1998, for approval by resolution of each House of Parliament.

DRAFT STATUTORY INSTRUMENTS

2015 No.

NORTHERN IRELAND

REPRESENTATION OF THE PEOPLE

**The Northern Ireland (Elections) (Amendment) (No. 2)
Order 2015**

Made - - - - *****
Coming into force - - *30th November 2015*

In accordance with section 7(1), (2)(e) and (2)(h) of the Political Parties, Elections and Referendums Act 2000(a), the Secretary of State has consulted with the Electoral Commission prior to this Order being made.

A draft of this Order has been laid before Parliament in accordance with section 201(2) of the Representation of the People Act 1983(b) and section 96(2)(b) of the Northern Ireland Act 1998(c) and approved by resolution of each House of Parliament.

Accordingly the Secretary of State, in exercise of the powers conferred by section 10A(7) of the Representation of the People Act 1983(d) and section 34(4) and (6) of the Northern Ireland Act 1998, makes the following Order:

Citation, commencement and interpretation

1.—(1) This Order may be cited as the Northern Ireland (Elections) (Amendment) (No. 2) Order 2015.

(2) This Order comes into force on 30th November 2015.

(3) In this Order—

“the 1983 Act” means the Representation of the People Act 1983;

(a) 2000 c. 41; amendments have been made to section 7 but they are not relevant to this Order.
(b) 1983 c. 2; subsection (2) was substituted by paragraph 69 of Schedule 4 to the Representation of the People Act 1985 (c. 50) and subsequently amended by S.I. 1991/1728, paragraph 6 of Schedule 21 to the Political Parties, Elections and Referendums Act 2000 and section 13 of the Northern Ireland (Miscellaneous Provisions) Act 2014 (c. 13).
(c) 1998 c. 47; amendments have been made to section 96(2) but they are not relevant to this Order.
(d) Section 10A was inserted by paragraph 4 of Schedule 1 to the Representation of the People Act 2000 (c. 2). Section 202(1) of the Representation of the People Act 1983 provides that “prescribed” means prescribed by regulations. Subsection (7) was amended by paragraph 10(11) of Schedule 4 to the Electoral Registration and Administration Act 2013 (c. 6).

“the 1985 Act” means the Representation of the People Act 1985(a);

“the 2001 Order” means the Northern Ireland Assembly (Elections) Order 2001(b);

“the 2008 Regulations” means the Representation of the People (Northern Ireland) Regulations 2008(c).

Amendment of the 2008 Regulations

2. In regulation 46B(6) of the 2008 Regulations (retention of entries on register following canvass)(d), in the definition of “relevant period”, for “second”, substitute “third”.

Amendments of the 2001 Order

3. In article 3(1) of the 2001 Order (application of certain provisions for Assembly elections) (e), for “and the 1985 Act”, substitute “, the 1985 Act and the Electoral Administration Act 2006(f)”.

4.—(1) Schedule 1 to the 2001 Order (application with modifications of the Representation of the People Acts to Assembly elections)(g) is amended as follows.

(2) In the heading, for “and the 1985 Act”, substitute “, the 1985 Act and the Electoral Administration Act 2006”.

(3) In the entry for section 63 of the 1983 Act (breach of official duty), in the right hand column—

(a) omit paragraph (b), and

(b) omit “Omit subsections (4) and (5).”

(4) In the entry for rule 2 of the Parliamentary elections rules (computation of time), in the right-hand column, after the modification which begins “For paragraph (2)”, insert—

	“Omit paragraph (2A).”
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(5) In the entry for rule 19 of the Parliamentary elections rules (ballot papers)(h), in the right-hand column, after the modification which begins “For paragraph (2A)”, insert—

	“Omit paragraph (2AA).
	In paragraph (2B) omit “or (2AA).”

(6) In the entry for rule 44 of the Parliamentary elections rules (attendance at counting of votes), in the right-hand column, for “paragraph (5)”, substitute “paragraphs (5) and (6)”.

(7) In the entry for rule 57 of the Parliamentary elections rules (retention and public inspection of documents), in the right-hand column, at the end insert—

	“In paragraph (1A) omit “the House of Commons or”.”
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(a) 1985 c. 50.

(b) S.I. 2001/2599 as amended by S.I. 2002/1964, 2003/2989, 2007/308, 2009/256, 2010/2892, 2014/1116 and 1804 and 2015/222, section 14(6) of the Electoral Registration and Administration Act 2014 (c. 6) and section 5 of the Northern Ireland (Miscellaneous Provisions) Act 2014 (c. 13).

(c) S.I. 2008/1741 as amended by S.I. 2010/278 and 882, 2011/2085, 2013/1846, 1881 and 3021, 2014/1808, 2015/221 and sections 14(1)(c), 15(2) and (3) and 20(4) of the Northern Ireland (Miscellaneous Provisions) Act 2014.

(d) Regulation 46B was inserted by S.I. 2013/1846. A full canvass of electors last took place in Northern Ireland in autumn 2013.

(e) Article 3 was substituted by S.I. 2009/256.

(f) 2006 c. 22.

(g) Schedule 1 was substituted by S.I. 2009/256.

(h) Rule 19 was amended by S.I. 2010/2892.

(8) In the entry for section 8 of the 1985 Act (proxies at elections), in the right-hand column—

(a) for “Omit subsection (6)”, substitute—

	“For subsection (6) substitute— “(6) Where a person has been appointed, under paragraph 3(5) of Part I of Schedule 2 to the 1985 Order(a), as a proxy to vote for the elector at local elections for an indefinite period, and the appointment remains in force, the appointment also has effect as an appointment as proxy to vote for the elector at Assembly elections for an indefinite period.”.”
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(b) for “Omit subsections (9) and (10)”, substitute—

	“In subsection (9) omit “or elections”.
	In subsection (10) omit paragraph (b) (and the “and” immediately before it).”

(9) At the end, insert—

“ELECTORAL ADMINISTRATION ACT 2006	
Section 46 (returning officers: correction of procedural errors)”	

5.—(1) Schedule 2 to the 2001 Order (application and modification of provisions of secondary legislation to Assembly elections)(b) is amended as follows.

(2) In the entry for regulation 56 of the 2008 Regulations (additional requirements for the appointment of a proxy), in the right-hand column, insert—

	“In paragraph (1) for “section 8(6) or (7)” substitute “section 8(7)”.
	In paragraph (2) omit sub-paragraph (a).”

(3) In the entry for regulation 62 of the 2008 Regulations (grant or refusal of applications), in the right-hand column, for “Omit paragraph (3)”, substitute “In paragraph (3) omit “(as amended for use also in respect of European Parliamentary elections)”.

Northern Ireland Office
Date

Name
Secretary of State

EXPLANATORY NOTE

(This note is not part of the Order)

Schedules 1 and 2 to the Northern Ireland Assembly (Elections) Order 2001 (S.I. 2001/2599) (“the 2001 Order”) apply certain provisions of the Representation of the People Act 1983 (c. 2) (“the 1983 Act”) and the Representation of the People (Northern Ireland) Regulations 2008 (S.I. 2008/1741) (“the 2008 Regulations”) to elections to the Northern Ireland Assembly.

This Order amends the 2001 Order and the 2008 Regulations so as to make changes to the rules relating to elections to the Northern Ireland Assembly.

(a) S.I. 1985/454. Schedule 2 was substituted by S.I. 1987/168. There are other amending instruments but none is relevant.
(b) Schedule 2 was substituted by S.I. 2009/256.

Article 2 is about the duty of the Chief Electoral Officer to maintain the electoral register, the rules about which are mainly contained in section 10A of the 1983 Act. Subsection (6) of that section requires the Chief Electoral Officer to update the register where (in particular) details have not been confirmed by the canvass. In certain circumstances (set out in section 46B of the 2008 Regulations), that requirement is deferred for two years. Article 2 extends this to three years.

Articles 3 to 5 make amendments to the 2001 Order. The substantive changes are as follows.

Article 4(3) and (9) ensures that no offence is committed where the Chief Electoral Officer makes a procedural error at an Assembly election but then remedies it in full.

Article 4(4) ensures that bank holidays are always disregarded when computing periods of time for the purposes of Assembly elections.

Article 4(5) preserves the existing rules on emblems on ballot papers.

Article 4(6) disapplies a reference to the rule (which applies for the purposes of Parliamentary elections but not Assembly elections) that ballot papers must begin to be counted 4 hours after the close of the poll.

Article 4(7) clarifies that the House of Commons does not have the power to require the retention of Assembly election ballot paper accounts etc.

Articles 4(8) and 5(2) and (3) make minor and technical changes to the provisions about proxy voting at Assembly elections.

An impact assessment has not been produced for this instrument as no impact on the private or voluntary sectors is foreseen.

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