

**EXPLANATORY MEMORANDUM TO
THE ELECTORAL ADMINISTRATION ACT 2006 (REGULATION OF
LOANS ETC: NORTHERN IRELAND) ORDER 2008**

2008 No.

1. This Explanatory Memorandum has been prepared by the Northern Ireland Office and is laid before Parliament by Command of Her Majesty.

2. Description

2.1 This Order makes provision about the regulation of loans to political parties registered in the Northern Ireland register of political parties, individuals and members associations (“Northern Ireland participants”). It enables Irish citizens and Irish bodies which meet prescribed conditions to enter into such financial transactions and provides that until 2010 transaction reports provided to the Electoral Commission in relation to these transactions shall not ordinarily be made public but will instead be verified by the Electoral Commission.

3. Matters of special interest to the Joint Committee on Statutory Instruments

3.1 None

4. Legislative Background

4.1 Section 61 of the Electoral Administration Act 2006 (“2006 Act”) amends the Political Parties, Elections and Referendums Act 2000 (“2000 Act”) to make provision for the regulation of loans to political parties in the United Kingdom. The Northern Ireland (Miscellaneous Provisions) Act 2006 (“Miscellaneous Provisions Act”) which was before Parliament at the same time as the 2006 Act made provision to allow parties registered in the Northern Ireland register of political parties, individuals and members associations to accept donations from Irish citizens and prescribed Irish bodies. It also provided that until 2010 donation reports provided by Northern Ireland’s political parties, individuals and members associations to the Electoral Commission would not be made public.

4.2 At the time of the passage of the 2006 Act, Ministers explained that further detailed and technical consideration would be required before the loans regime in the 2000 Act could be applied to Northern Ireland. This would be likely to entail mirroring the approach to be adopted in relation to the regulation of donations in Northern Ireland in the Miscellaneous Provisions Act.

4.3 Section 63 of the 2006 Act therefore provided the power to make provision for modifications to be made to the loans regime as it applies to Northern Ireland similar to the modifications made to the donations regime in Northern Ireland by the Miscellaneous Provisions Act.

5. Extent

5.1 This instrument extends to Northern Ireland.

6. European Convention on Human Rights

6.1 Paul Goggins has made the following statement regarding Human Rights:

In my view the provisions of the Electoral Administration Act 2006 (Regulation of Loans etc: Northern Ireland) Order 2008 are compatible with the Convention rights.

7. Policy Background

7.1 The 2000 Act regulates loans to political parties in the UK. This Order amends the 2000 Act to make special provision for loans in relation to Northern Ireland equivalent to that already made for political donations in Northern Ireland by the Miscellaneous Provisions Act.

7.2 Article 3 of the Order amends the 2000 Act to provide that Irish citizens and prescribed Irish bodies can enter into financial transactions with Northern Ireland participants. This is in recognition of the special place which Ireland occupies in the political life of Northern Ireland. Article 5 of, and Schedule 1 to, the Order provides that from 1st July 2008 until 31st October 2010 (“the prescribed period”) the reports of financial transactions made by Northern Ireland participants to the Electoral Commission will not ordinarily be made public. This is in recognition of concerns expressed that those entering into such transactions may be subject to intimidation. Instead of publication, the Electoral Commission will privately verify the information in such reports.

7.3 Article 5(3) gives the Secretary of State the power to extend the prescribed period by order. An order made under this provision may not be made unless an order is made under section 14(3) of the Miscellaneous Provisions Act 2006 at the same time. This is because the policy is that the special regime for loans should only be in place for as long as the temporary provisions for donations are in place.

7.4 The Government has consulted the Northern Ireland political parties and the Electoral Commission on the draft Order. No responses were received from the parties; the Electoral Commission is content.

8. Impact

8.1 A Regulatory Impact Assessment has not been prepared for this instrument as it has no impact on the public sector, business, charities or voluntary bodies in the United Kingdom.

9. Contact

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