



DRAFT LEGISLATION

NORTHERN IRELAND (MISCELLANEOUS PROVISIONS) BILL

**INCREASING THE TRANSPARENCY OF DONATIONS AND LOANS
TO POLITICAL PARTIES IN NORTHERN IRELAND**

CONSULTATION

Presented to Parliament
by the Secretary of State for Northern Ireland
by Command of her Majesty

January 2014

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1. FOREWORD

The publication of details of donations and loans made to political parties helps to address the risk of corruption and supports democratic decision-taking, by enabling the electorate to know how, and by whom, political parties are funded.

The current arrangements in Northern Ireland do not permit any information on donations or loans to be published because of concerns that this might result in intimidation and threats against individuals. These arrangements do not strike an appropriate balance between the public interest in information about political party funding and the security of individuals. The Government is committed to increasing the information available to the public about the funding of Northern Ireland parties on an incremental basis, taking into account the possible security risks.

This paper sets out the first piece of secondary legislation, which the Government proposes to make under powers to increase transparency in clauses 1 and 2 of the Northern Ireland (Miscellaneous Provisions) Bill. The legislation would provide for the release of limited information about donations made since 2007, and loans made since 2008, providing individual donors and lenders cannot be identified from the information. It also ends the anomaly under which the Electoral Commission is unable to publish information about donations and loans even if the donor or lender is willing to have such information published.

The proposed changes will enable the Electoral Commission to provide information to the public about the scale and sources of funding to Northern Ireland parties for the first time. They will be an important step towards transparency. But I hope they will be only the first step. The Government's objective is that political parties in Northern Ireland should be subject to the same transparency rules as those in Great Britain and we intend to take further steps in this direction as soon as the security situation allows.

A handwritten signature in black ink, appearing to read 'Andrew Robathan', written in a cursive style.

RT HON ANDREW ROBATHAN MP
MINISTER OF STATE FOR NORTHERN IRELAND

2. BACKGROUND

1. Northern Ireland political parties and regulated donees, like parties and regulated donees elsewhere in the UK, must report donations and regulated transactions (“loans”) above a certain threshold to the Electoral Commission (the “Commission”). However, in contrast to Great Britain, the Commission is currently under a strict statutory obligation not to disclose any information that relates to these donations or loans, including the identities of donors and lenders.

2. Clauses 1 and 2 of the Northern Ireland (Miscellaneous Provisions) Bill give the Secretary of State the power to increase transparency in relation to donations and loans to Northern Ireland political parties and regulated donees. For a full description of the background to these changes, and a description of the powers of the Secretary of State under clauses 1 and 2, please see paragraphs 5 to 17 and 123 to 133 of the Explanatory Notes to the Bill, available at <http://www.publications.parliament.uk/pa/bills/lbill/2013-2014/0058/en/14058en.htm>.

3. The draft Transparency of Donations and Loans etc. (Northern Ireland Political Parties) Order 2014 (the “Order”) provides for:

- the manner in which a donor or lender can give consent to the release of information about donations and loans made at any time after 1st November 2007;
- the publication by the Commission of all information about donations and loans to political parties and other regulated donees in Northern Ireland, providing that the information does not identify the donor; and
- the publication by the Commission of all information about payments out of public funds made on or after 1st January 2014 to political parties and other regulated donees in Northern Ireland.

3. CONSENT TO DISCLOSURE OF INFORMATION

Form of consent

4. Part 1 of the Order specifies the manner in which consent must be given before the Commission can disclose information about donations and loans, including information about the identity of the donor or lender. It requires that consent to must be given by the donor or lender¹ by notice in writing to the Commission.

Delivery of consent

5. There is no requirement for the notice of consent to be delivered to the Commission in person. It would be possible for consent to be given electronically, as long as the Commission can be satisfied as to the identity of the person who is giving consent.

6. The Government acknowledges that in practice it is usually the political party or the regulated donee, and not the donor or lender, who is in regular contact with the Commission. This is because it is the responsibility of a political party or regulated donee in receipt of a donation or loan to satisfy itself that the donation is from a permissible source and to report donations or loans received to the Commission. This intermediary role will not necessarily be removed. Under article 2 of the Order, it would be possible for consent to be delivered to the Commission by the recipient on behalf of the donor or lender.

7. However, it would also be possible for the donor to deliver consent to the Commission directly, or through a third party. This means that a recipient cannot prevent information from being published if the donor or lender wishes this to happen.

¹ Note that in the case of regulated transactions involving more than one individual or organisation, all parties to the transaction (with the exception of any registered party or regulated donee which is required to report the transaction) must consent to publication: see s.71Z4(4B), as inserted by the Northern Ireland (Miscellaneous Provisions) Bill.

The Government proposes that the Electoral Commission should be able to disclose information about donations and loans where consent is given by the donor in writing.

Question 1: Is it a sufficient safeguard for consent to be given in writing?
Should other safeguards be considered?

Question 2: Is it appropriate to permit political parties to play a role in transmitting consent from the donor to the Electoral Commission?

Please give reasons for your answer, providing evidence where possible

4. DISCLOSURE OF INFORMATION WHICH DOES NOT IDENTIFY THE DONOR

8. Part 2 of the Order makes provision for the Commission to publish information about donations to Northern Ireland recipients on or after 1st November 2007 (or 1st July 2008 for loans), as long as this information does not identify the donor or lender.

Information submitted to the Electoral Commission

9. Donations and loans reports submitted to the Electoral Commission include the following information²:

- The name of the recipient (e.g. regulated donee, party, branch of party)
- The name and address of the donor or lender
- The type of donor or lender (e.g. company, individual, public funds)
- The nature of the donation (e.g. cash, sponsorship, non cash)
- The amount or value of the donation or loan
- The date the donation or loan was received
- The date the donation or loan was accepted or returned to the donor or lender (in the case of impermissible donations or loans)
- Whether the donor or lender was an “Irish source”³.

10. Donations and loans reports submitted to the Commission in relation to Irish citizens who are not registered to vote in the UK must also contain a copy of the donor or lender’s passport, certificate of nationality or certificate of naturalisation, certified by the Department of Foreign Affairs of Ireland.

11. In relation to political parties and regulated donees in Great Britain, the Commission publishes all of the information listed in paragraph 9 above. However, currently information relating to Northern Ireland recipients is held separately and cannot be published.

² Detailed requirements are set out in Schedules 6 and 6A of the Political Parties, Elections and Referendums Act 2000 (as amended).

³ “Irish sources” are defined in Part 1 of the Political Parties, Elections and Referendums Act 2000 (Northern Ireland Political Parties) Order 2007. Irish citizens living outside the UK would fall into this category.

12. Public funding⁴ is treated as a donation under section 55(2) of the Political Parties, Elections and Referendums Act 2000 and is reported to the Electoral Commission in the same way as donations from individuals or corporations. As a result, details of public funding received by Northern Ireland political parties are not currently published by the Electoral Commission. However, information about public funding is often already published by the public body responsible for its allocation. The main exception to this is the Northern Ireland Assembly Financial Assistance to Political Parties Scheme, the details of which are not published at present.

Provisions increasing transparency

13. Part 2 of the Order narrows the prohibition on publication, so that the Commission is only prohibited from publishing “confidential information” about donations and loans. Confidential information means any information which identifies a donor or lender, or from which it is possible to identify a donor or lender. As such, the Commission will be able to publish any information from which it is not possible to identify the donor or lender.

14. In addition, the Government does not believe that there is any reason why information about payments made out of public funds should be withheld on grounds that the donor might be intimidated, particularly as its allocation is already a matter of public record in most cases. Under Part 2 of the Order, the Electoral Commission will no longer be prohibited from publishing information about payments made from public funds on or after 1st January 2014.

15. In relation to payments from public funds made before 1st January 2014, written consent to the Electoral Commission would still be needed to enable publication of the information. The Government would strongly

⁴ Northern Ireland parties are eligible for several kinds of public funding. This includes “Short money”, which is an annual payment made to opposition parties in the House of Commons and “Cranborne money”, which is the equivalent payment to parties in the House of Lords. Northern Ireland parties also receive funding under the Northern Ireland Assembly Financial Assistance for Political Parties Scheme and the Policy Development Grant Scheme administered by the Electoral Commission.

encourage public bodies responsible for the allocation of such funding to consent to disclosure.

The Government proposes that the Electoral Commission should in future be able to disclose any information from which it is not possible to identify the donor or lender.

Question 3: Should the Electoral Commission be able to disclose information about donations and loans made before 1st January 2014, providing it is not possible to identify the donor or lender?

The Government proposes that the Electoral Commission should be able to disclose all information about money provided to political parties from public funds after 1st January 2014.

Question 4: Should information about money provided to Northern Ireland political parties from public funds be released automatically in future?

Please give reasons for your answer, providing evidence where possible

Method of publication

16. Article 5 requires the Commission to prepare a publication copy of the registers of donations and loans made to Northern Ireland recipients. The publication copy of each register must not contain confidential information, which is defined as any information from which it is possible to identify the donor or lender (except for payments out of public funds after 1st January 2014). For example, the publication copy could not include the name and address of a donor or lender.

17. Omitting identifying details such as names and addresses from the publication copy will be sufficient to protect the identity of donors and lenders to the larger Northern Ireland political parties. However, where donations and loans are made to small political parties, individual members of political parties or holders of elective office, including independent elected politicians, it may be possible to identify donors or lenders once the identity of the recipient and nature of the donation is known, particularly where non-cash donations are concerned. For example, a person who donated use of a

constituency office would be likely to be identifiable if the recipient of the donation were known.

18. To reduce the risk of individual donors and lenders being identified through the identity of the individual recipient, the Order makes specific provision for the form in which the Electoral Commission should publish information. The proposed new sections 149A and 149B, inserted by article 5 of the Order, make specific provision about the grouping of information that is published about donations and loans. Donations or loans to local branches, individual members and elected representatives of major political parties will be grouped together and published as donations or loans to that party. Donations and loans to independent office holders and small parties (defined as those with fewer than three elected members) will also be grouped together for publication purposes.

19. The Electoral Commission must still ensure that it does not include in the publication copy of the register any information from which it is possible to identify a relevant person. As such, if it would be possible to identify a person from the information, even when grouped as described above, the Electoral Commission must remove from the publication copy the piece of information which allows the donor or lender to be identified.

The Government proposes that, in addition to withholding the names and addresses of donors, information relating to donations and loans to Northern Ireland recipients should be grouped for publication purposes to prevent donors being identified. The format in which information about donations and loans should be published is specified, but the Electoral Commission has a residual discretion to withhold any other information which may identify the donor.

Question 5: What information should be withheld to ensure donors and lenders cannot be identified?

Question 6: Is the proposed grouping of donations sufficient to protect donors and lenders to individual holders of elective office or small parties? Is there a better way to ensure that such donors and lenders cannot be identified?

Question 7: Should the Electoral Commission be given any discretion in deciding whether additional information should be withheld?

Please give reasons for your answer, providing evidence where possible

Tracking donations from the same individual

20. In its report on the Northern Ireland (Miscellaneous Provisions) Bill, published on 20th March 2013, the Northern Ireland Affairs Committee recommended that information published about past donations and loans should indicate where donations and loans had been made by the same individual, so that repeat donations and loans, or donations and loans to multiple political parties, could be identified⁵. For example, this might be done by allocating a unique number to each donor or lender.

21. At present, donors and lenders (except Irish sources) are not expected to provide to the Electoral Commission any personal identifier, such as a national insurance number or date of birth. This makes it difficult to indicate with a high degree of certainty whether past donations over a period of time have come from the same source or not. For example, it would be impossible to say whether donations from two people with the same name at different addresses were in fact from the same donor. It is also possible that some donors may have been reported as donors on the Northern Ireland electoral register in some years and as Irish source donors in other years (for example, donations from Irish citizens registered to vote in Northern Ireland might be reported in either category).

22. Because of the difficulty in tracking past donations from the same individual, the draft Order does not make any provision in this area. However, the Government recognises that the publication of this information would be in the public interest and remains willing to consider proposals which would enable further information to be provided, without revealing donor identities.

⁵ Available from <http://www.parliament.uk/business/committees/committees-a-z/commons-select/northern-ireland-affairs-committee/publications/>

The Government does not propose to make provision for tracking donations from the same individual, because reports made to the Electoral Commission do not include individual identifiers for donors.

Question 8: Is there any way of reliably tracking past donations and loans from the same individual without revealing their identity?

Please give reasons for your answer, providing evidence where possible

5. SUMMARY OF CONSULTATION QUESTIONS

Consent to disclosure of information

23. The Government proposes that the Electoral Commission should be able to disclose information about donations and loans where consent is given by the donor in writing.

- *Question 1: Is it a sufficient safeguard for consent to be given in writing? Should other safeguards be considered?*
- *Question 2: Is it appropriate to permit political parties to play a role in transmitting consent from the donor to the Electoral Commission?*

Provisions increasing transparency

24. The Government proposes that the Electoral Commission should in future be able to disclose any information from which it is not possible to identify the donor or lender.

- *Question 3: Should the Electoral Commission be able to disclose information about donations and loans made before 1st January 2014, providing it is not possible to identify the donor or lender?*

25. The Government proposes that the Electoral Commission should be able to disclose all information about money provided to political parties from public funds after 1st January 2014.

- *Question 4: Should information about money provided to Northern Ireland political parties from public funds be released automatically in future?*

Method of publication

26. The Government proposes that, in addition to withholding the names and addresses of donors, information relating to donations and loans to Northern Ireland recipients should be grouped for publication purposes to

prevent donors being identified. The format in which information about donations and loans should be published is specified, but the Electoral Commission has a residual discretion to withhold any other information which may identify the donor.

- *Question 5: What information should be withheld to ensure donors and lenders cannot be identified?*
- *Question 6: Is the proposed grouping of donations sufficient to protect donors and lenders to individual holders of elective office or small parties? Or is there a better way to ensure that such donors and lenders cannot be identified?*
- *Question 7: Should the Electoral Commission be given any discretion in deciding whether additional information should be withheld?*

Tracking donations from the same individual

27. The Government does not propose to make provision for tracking donations from the same individual, because reports made to the Electoral Commission do not include individual identifiers for donors.

- *Question 8: Is there any way of reliably tracking past donations and loans from the same individual without revealing their identity?*

6. RESPONDING TO THIS CONSULTATION

28. This consultation will run for 12 weeks. Responses are requested by **28 April 2014**. Comments on the proposals should be e-mailed to electionsunit@nio.x.gsi.gov.uk. Responses can also be faxed to 0207 210 6550 or sent by post to:

Constitutional Policy Team
Northern Ireland Office
1 Horse Guards Road
LONDON
SW1A 2HQ

29. Please call 0207 210 6431 for queries in relation to this consultation. The NIO textphone number is 02890 527668.

Confidentiality and disclaimer

30. The NIO is committed to publishing a list of those organisations that comment on these proposals and to making available, to anyone who asks for it, a copy of the comments and our response to them. If you do not wish your comments to be published in this way, please ensure that your response is marked clearly. An automatic confidentiality disclaimer generated by your IT system will not, of itself, be regarded as binding on the Department.

31. The information you send us may be passed to colleagues within the Northern Ireland Office, the Government or related agencies. Individual responses may also be published on the internet at www.gov.uk/nio unless a respondent has requested otherwise. Information provided in response to this consultation, including personal information, may be published or disclosed in accordance with the access to information regimes. These are primarily: the Freedom of Information Act 2000 (FOIA), the Data Protection Act 1998 (DPA) and the Environmental Information Regulations 2004.

32. If you want the information that you provide to be treated as confidential, please be aware that, under the FOIA, there is a statutory Code

of Practice, with which public authorities must comply, and which deals, amongst other things, with obligations regarding confidence. In view of this, it would be helpful if you could explain to us why you regard the information you have provided as confidential. If we receive a request for disclosure of the information we will take full account of your explanation, but we cannot give an assurance that confidentiality can be maintained in all circumstances.

33. Confidential responses included in any statistical summary of numbers of comments received and views expressed, will be anonymised. The Department will process your personal data strictly in accordance with the DPA. In most circumstances this will mean that your personal data will not be disclosed to third parties.

34. If you have any concerns or complaints about the consultation process you should contact the NIO's consultation co-ordinator on 0207 210 6545, or e-mail corporategovernance@nio.x.gsi.gov.uk or by post:

Consultation Co-ordinator
Corporate Governance Unit
Northern Ireland Office
1 Horse Guards Road
LONDON
SW1A 2HQ

Draft Order laid before Parliament under section 156(4)(ca) of the Political Parties, Elections and Referendums Act 2000 and section 15A(5) of the Northern Ireland (Miscellaneous Provisions) Act 2006, for approval by resolution of each House of Parliament.

DRAFT STATUTORY INSTRUMENTS

2014 No.

POLITICAL PARTIES, NORTHERN IRELAND

The Transparency of Donations and Loans etc. (Northern Ireland Political Parties) Order 2014

Made - - - - ***

Coming into force - - ***

In accordance with section 71A(4) of the Political Parties, Elections and Referendums Act 2000⁽¹⁾ and section 15A(1) of the Northern Ireland (Miscellaneous Provisions) Act 2006⁽²⁾, the Electoral Commission has been consulted prior to making this Order.

A draft of this Order has been laid before Parliament under section 156(4)(ca) of the Political Parties, Elections and Referendums Act 2000⁽³⁾ and section 15A(5) of the Northern Ireland (Miscellaneous Provisions) Act 2006.

The Secretary of State makes the following Order in exercise of the powers conferred by section 15A(1) to (3) of the Northern Ireland (Miscellaneous Provisions) Act 2006⁽⁴⁾ and sections 71E(4A)(b)⁽⁵⁾, 71Z4(4A)(b)⁽⁶⁾ and 156(5) of the Political Parties, Elections and Referendums Act 2000.

Citation, commencement and interpretation

1.—(1) This Order may be cited as the Transparency of Donations and Loans etc. (Northern Ireland Political Parties) Order 2014.

(2) This Order comes into force on 1st October 2014.

⁽¹⁾ 2000 c. 41; section 71A was inserted by section 12 of the Northern Ireland (Miscellaneous Provisions) Act 2006 (c. 33) (“NIMPA 2006”).

⁽²⁾ 2006 c. 33; section 15A was inserted by [section 1] of the Northern Ireland (Miscellaneous Provisions) Act 2014 (c. X) (“NIMPA 2014”).

⁽³⁾ Section 156(4)(ca) was inserted by section 13 of the NIMPA 2006.

⁽⁴⁾ See also the restrictions on the power in section 15B of the NIMPA 2006, which was inserted by section 1 of the NIMPA 2014.

⁽⁵⁾ Section 71E was inserted by section 14 of, and Schedule 1 to, the NIMPA 2006 and amended by [section 1] of the NIMPA 2014. See the definition of “prescribed” in section 71A, which was inserted by section 12 of the NIMPA 2006.

⁽⁶⁾ Section 71Z4 was inserted by S.I. 2008/1319 and amended by [section 2] of the NIMPA 2014. See the definition of prescribed in section 71Z, which was inserted by S.I. 2008/1319.

(3) In this Order, “the 2000 Act” means the Political Parties, Elections and Referendums Act 2000.

PART 1

Disclosure of reports by the Commission with consent

Consent to disclosure of information about donations and loans, etc.

2.—(1) This article applies for the purpose of sections 71E(4A)(b) and 71Z4(4A)(b) of the 2000 Act.

(2) Consent may be given only by notice in writing⁽⁷⁾ to the Commission⁽⁸⁾.

PART 2

Provision to increase transparency: donations and loans, etc.

Disclosure of information contained in donation reports

3.—(1) Section 71E of the 2000 Act (duty not to disclose contents of donation reports) is amended as follows.

(2) In subsection (1), for the words from “information” to the end of paragraph (b) substitute “confidential information which has been obtained by the Commission in the exercise of their functions under this Part.”.

(3) In subsection (4B)—

(a) at the beginning, insert “In this section—”; and

(b) before the definition of “the relevant person” insert—

““confidential information” means any information which—

(a) relates to a donation received by a Northern Ireland recipient, other than a donation—

(i) by virtue of section 55(2) (payments out of public funds treated as donations from permissible donors)⁽⁹⁾, and

(ii) which is received on or after 1st January 2014; and

(b) identifies the relevant person⁽¹⁰⁾ or from which it is possible to identify the relevant person.”.

Disclosure of information contained in transaction reports

4.—(1) Section 71Z4 of the 2000 Act (duty not to disclose contents of transaction reports) is amended as follows.

(2) In subsection (1), for the words from “information” to the end substitute “confidential information which has been obtained by the Commission in the exercise of their functions under this Part.”.

(3) In subsection (4B)—

⁽⁷⁾ By Schedule 1 of the Interpretation Act 1978, “writing” includes typing, printing, lithography, photography and other modes of representing or reproducing words in a visible form.

⁽⁸⁾ “The Commission” is defined in section 160(1) of the 2000 Act.

⁽⁹⁾ Section 55(2) provides that any payment out of public funds received by a registered party shall (subject to section 52(1)(b)) be regarded as a donation received by the party from a permissible donor. Payments out of public funds are defined in section 160(4) of the 2000 Act.

⁽¹⁰⁾ “The relevant person” is defined in section 71E(4B) of the 2000 Act.

- (a) at the beginning, insert “In this section—”; and
- (b) before the definition of “relevant person” insert—
 - ““confidential information” means any information which —
 - (a) relates to a transaction to which a Northern Ireland participant is a party; and
 - (b) identifies a relevant person⁽¹¹⁾ or from which it is possible to identify a relevant person.”.

Inspection of registers: confidential information

- 5.**—(1) In section 149 of the 2000 Act (inspection of Commission’s registers etc.)⁽¹²⁾—
- (a) in subsection (8), after “Northern Ireland recipient” insert “(see instead sections 149A and 149C)”; and
 - (b) in subsection (10), after “is a party” insert “(see instead sections 149B and 149C)”.
- (2) After section 149 of the 2000 Act insert—

“Northern Ireland: publication copy of register under section 69

149A.—(1) This section applies to so much of the register maintained under section 69 as concerns donations to a Northern Ireland recipient, within the meaning of Chapter 6 of Part 4.

(2) The Commission must arrange for a copy of the register (the “publication copy”) to be produced.

(3) The publication copy must not contain confidential information.

(4) The publication copy must show in one place, in relation to each registered party which is not a small registered party—

- (a) information which concerns a donation to the registered party;
- (b) information which concerns a donation to a member of the registered party; and
- (c) information which concerns a donation to a members association whose membership consists wholly or mainly of members of the registered party.

(5) The information mentioned in subsection (4) must be shown in such a way that it is not possible to distinguish whether it falls within paragraph (a), (b) or (c) of that subsection.

(6) Subsection (7) applies where the register contains information which concerns a donation to—

- (a) a small registered party;
- (b) a member of a small registered party;
- (c) a members association whose membership consists wholly or mainly of members of one or more small registered parties; or
- (d) an independent office holder.

(7) The publication copy must show the information—

- (a) in one place; and
- (b) in such a way that it is not possible to distinguish whether it falls within paragraph (a), (b), (c) or (d) of subsection (6).

(8) Subsection (9) applies where—

⁽¹¹⁾ “Relevant person” is defined in section 71Z4(4B) of the 2000 Act.

⁽¹²⁾ Section 149 was amended by section 61 of the Electoral Administration Act 2006 (c. 22); Schedule 1 to the Northern Ireland (Miscellaneous Provisions) Act 2006 (c. 33); S.I. 2008/1319 and Schedules 6 and 7 to the Political Parties and Elections Act 2009 (c. 12).

- (a) any of the information shown in the publication copy under subsection (4)(b) or (6)(b) concerns a donation to a member of more than one registered party; or
 - (b) any of the information shown in the publication copy under subsection (4)(c) or (6)(c) concerns a donation to a members association whose membership consists wholly or mainly of members of more than one registered party.
- (9) The publication copy must specify the number of other registered parties in relation to which that information is shown in the publication copy.
- (10) In this section—
- “confidential information” has the same meaning as in section 71E;
 - “independent office holder” means a person who holds a relevant elective office and who is not a member of a registered party;
 - “members association” has the same meaning as in Schedule 7;
 - “relevant elective office” has the same meaning as in Schedule 7;
 - “small registered party” means a registered party with fewer than three members who hold a relevant elective office.

Northern Ireland: publication copy of register under section 71V

149B.—(1) This section applies to so much of the register maintained under section 71V as concerns recordable transactions to which a Northern Ireland participant, within the meaning of Chapter 2 of Part 4A, is a party.

(2) The Commission must arrange for a copy of the register (the “publication copy”) to be produced.

(3) The publication copy must not contain confidential information.

(4) The publication copy must show in one place, in relation to each registered party which is not a small registered party—

- (a) information which concerns a recordable transaction to which the registered party was a party,
- (b) information which concerns a recordable transaction to which a member of the registered party was a party, and
- (c) information which concerns a recordable transaction to which a members association, whose membership consists wholly or mainly of members of the registered party, was a party.

(5) The information mentioned in subsection (4) must be shown in such a way that it is not possible to distinguish whether it falls within paragraph (a), (b) or (c) of that subsection.

(6) Subsection (7) applies where the register contains information which concerns a recordable transaction—

- (a) to which a small registered party was a party;
- (b) to which a member of a small registered party was a party;
- (c) to which a members association whose membership consists wholly or mainly of members of one or more small registered parties; or
- (d) an independent office holder.

(7) The publication copy must show the information—

- (a) in one place; and
- (b) in such a way that it is not possible to distinguish whether it falls within paragraph (a), (b), (c) or (d) of subsection (6).

(8) Subsection (9) applies where—

- (a) any of the information shown in the publication copy under subsection (4)(b) or (6)(b) concerns a recordable transaction to which a member of more than one registered party was a party; or
 - (b) any of the information shown in the publication copy under subsection (4)(c) or (6)(c) concerns a recordable transaction to which a members association whose membership consists wholly or mainly of members of more than one registered party was a party.
- (9) The publication copy must specify the number of other registered parties in relation to which that information is shown in the publication copy.
- (10) In this section—
- “confidential information” has the same meaning as in section 71Z4;
 - “independent office holder” means a person who holds a relevant elective office and who is not a member of a registered party;
 - “members association” has the same meaning as in Schedule 7;
 - “relevant elective office” has the same meaning as in Schedule 7;
 - “small registered party” means a registered party with fewer than three members who hold a relevant elective office.

Northern Ireland: access to the publication copies

149C.—(1) This section applies to—

- (a) the publication copy produced under section 149A(2); and
- (b) the publication copy produced under section 149B(2).

(2) The Commission must make the publication copy available for public inspection during ordinary office hours, either at the Commission’s offices or at some convenient place appointed by them.

(3) The Commission may make other arrangements for members of the public to have access to the publication copy.

(4) If requested to do so by any person, the Commission must supply that person with the publication copy or any part of it.

(5) The Commission may charge such reasonable fee as they may determine in respect of—

- (a) any inspection or access allowed under subsection (2) or (3); or
- (b) any copy supplied under subsection (4).

(6) Where the publication copy is held by the Commission in electronic form, any copy—

- (a) made available for public inspection under subsection (2), or
- (b) supplied under subsection (4),

must be made available, or (as the case may be) supplied, in a legible form.”

Name
Minister of State
Northern Ireland Office

Date

EXPLANATORY NOTE
(This note is not part of the Order)

Northern Ireland political parties, like parties elsewhere in the UK, must report donations and loans (referred to in the legislation as regulated transactions) above a certain threshold to the Electoral Commission. However, in contrast to Great Britain, the Electoral Commission is currently under a statutory obligation not to disclose any information that relates to these donations or loans, including the identities of donors and lenders. The Secretary of State can

amend or modify the current donations and loans regime to increase transparency, as long as “protected information” (from which it is possible to identify a person who made a donation or loan before 1st January 2014) is not disclosed. In addition, the Electoral Commission can disclose all information, including protected information, if they believe on reasonable grounds that the donor or lender has consented to that disclosure.

Article 2 prescribes the manner in which consent is to be given to the Electoral Commission to permit the disclosure of information. Consent must be given by the donor or lender by notice in writing. There is no restriction on how it might be delivered to the Commission, meaning that it could be delivered by the donor or lender, or by the recipient of the donation or loan on the donor or lender’s behalf.

Articles 3 and 4 narrow the existing prohibition on disclosure of information in reports about donations and loans. The Electoral Commission will now be prohibited from disclosing such information only if the information identifies the donor or lender or makes it possible to identify the donor or lender. The Electoral Commission will not be prohibited from disclosing any information which relates to payments out of public funds made on or after 1st January 2014.

Article 5 requires the Electoral Commission to prepare a publication copy of the register of information about donations and loans to Northern Ireland political parties and their members and elected officials. Where the information in the register relates to political parties, other than small political parties, and their members (including elected members), the published information must be grouped together by political party so that the specific recipient of the donation or loan cannot be identified. Where the information in the register relates to small political parties and their members, and elected persons who are not members of a political party, the published information must be grouped together so that the individual recipient of the donation or loan cannot be identified. Where the recipient of a donation or loan is a member of more than one registered party, the information will be grouped in relation to both parties and the publication copy will indicate how many other registered parties the information relates to. The Electoral Commission is required to make the publication copy available for inspection and supply it to the public on request. The Electoral Commission may also make other arrangements to allow the public to have access to the publication copy.

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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