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The Electoral Registration (Northern Ireland) Bill

[HL]

Bill 64 of 2004-5

This short bill is designed to amend electoral registration procedures in Northern Ireland, so that former electors who failed to return the annual canvass in December 2004 can be carried over to the current register. Registration in Northern Ireland is on an individual basis, following reforms in the *Electoral Fraud (Northern Ireland) Act 2002*. This abolished the power to carry-over names from one annual canvass to another, still used in Great Britain. The Chief Electoral Office of Northern Ireland has identified 83,000 former electors removed from the register at the 2004 canvass. The Bill had its second reading in the Lords on 21 February 2005, and remaining stages on 22 February with no amendments made. All stages of the Bill are due to be taken in the Commons on 24 February.

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Summary of main points

The Bill is intended to arrest the significant decline in the numbers of people registered to vote in Northern Ireland. The Northern Ireland parliamentary electorate fell by 125,000, or 10.5 per cent, between the December 2001 and December 2002 registers. It has now subsequently fallen by a further 10,000, 1.0 per cent. It allows the Chief Electoral Officer of Northern Ireland to reinstate the names of former electors who were excluded from the December 2004 register because they failed to complete forms, or failed to complete them fully. The Bill:

- Enables the CEO to register these former electors by 1 April 2005
- Allows the CEO to carry forward names of electors who fail to complete the forms for the 2005 canvass to the register to be published on 1 December 2005
- Will expire after 12 months, unless it is renewed for one further period of 12 months by order

The Government has indicated that this legislation is an interim measure, pending abolition of the system of annual canvassing. In Northern Ireland this takes place in time for the register to be published on 1 December each year. Following the *Electoral Fraud (Northern Ireland) Act 2002* the provision to carry over the names of electors from one annual register to another was abolished for Northern Ireland only. The 2002 legislation tightened registration procedures, as a response to concerns about electoral fraud. It introduced a system of individual registration for electors, whereas the rest of the UK still uses a system of registration by household.

Reports from the Electoral Commission in December 2003 and the Northern Ireland Select Committee in December 2004 found that the level of registration had dropped by around 10 per cent since implementation of the legislation. Evidence from the Chief Electoral Officer indicated that around 10 per cent of the annual register had previously been made up of non-responders who had been carried over. Both the Chief Electoral Officer and the Electoral Commission agreed that the main cause in the decline was the abolition of carry over, but the Electoral Commission was not in favour of its reinstatement, because it believed that the reformed registration procedures were more accurate and robust.

The Bill was considered in the Lords on 21 and 22 February 2005. There were concerns that the Bill offered only a partial solution to the problem of under-registration, and that its provisions might be seen to undermine the *Electoral Fraud (Northern Ireland) Act 2002*.

More generally, the introduction of individual registration appears to have been responsible for a fall in the number of young people and attainers (17plus) who are registered. This has considerable implications for the possible introduction of individual electoral registration in the UK. The ODPM and Constitutional Affairs Select Committees are conducting a joint inquiry into electoral registration.

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I Introduction

A. Electoral Law and Administration in Northern Ireland

Election law and election administration are excepted matters under the *Northern Ireland Act 1998* and therefore legislation must be introduced at Westminster to change the law in Northern Ireland.¹ Separate delegated legislation is necessary to apply the law relating to Westminster Parliament elections to Assembly, local and European Parliamentary elections. Implementation is carried out through the Order in Council procedure. There are some important differences in electoral administration in Northern Ireland, the most important being the post of the Chief Electoral Officer (CEO).

The CEO is an independent official, appointed by the Secretary of State under s14 of the *Electoral Law Act (Northern Ireland) 1962*.² He is responsible for the conduct of all elections in Northern Ireland – a function carried out by locally based electoral officers in Great Britain. He acts as the Registration and Returning Officer for each parliamentary constituency in Northern Ireland, and the Returning Officer for European Parliamentary elections, Assembly elections and district council elections. There is only one electoral register in Northern Ireland, which is administered by the CEO. The CEO is under a statutory obligation to submit a detailed annual report to the Secretary of State, which is then presented to Parliament.³ He runs the Electoral Office of Northern Ireland (EONI). The current CEO is Denis Stanley.

The Electoral Commission, established under the *Political Parties, Elections and Referendums Act 2000* has an remit which extends to Northern Ireland but which does not replace the role of the CEO there. The Commission has a statutory duty to report on elections to the Westminster Parliament, the European Parliament and the Northern Ireland Assembly. It also has a duty to keep under review electoral law, and to promote public awareness of the electoral and democratic systems. It has an office in Northern Ireland.

An assessment of some difficulties in the relationship between the two electoral bodies was made in a recent report from the Northern Ireland Select Committee:

¹ Schedule 2, paras 2 and 12. Excepted areas are those reserved to the Westminster Parliament

² As amended by Article 6(1) of the Electoral Law (Northern Ireland) Order 1972. Under s14(2)(b) of the 1962 Act the CEO holds office ‘during good behaviour’ otherwise he can be removed from office by the Secretary of State

³ Section 14(4) of the *Electoral Law Act (Northern Ireland) 1962* The latest report was for 2003-4 and is available at <http://www.electorlofficeni.gov.uk/about/documents/AnnualReport2003-04.pdf>

There was evidence that the working relationship between the Electoral Commission and the Electoral Office of Northern Ireland could be improved. One example of poor working practice was the failure of these bodies to co-ordinate telephone help lines properly during the 2003 canvass period. This risked confusing those calling to seek advice. It is not cost-effective when the two organisations run competing services. The Electoral Commission and Electoral Office must lead the drive to engender confidence in the new voting arrangements and by co-ordinating their operations ensure fulfilment of their shared aims. The government needs to satisfy itself that the allocation of responsibilities between these bodies is fully transparent, and that there is no structural impediment to their full co-operation.⁴

The Northern Ireland Select Committee also called for a more robust and independent funding mechanism for the Electoral Office of Northern Ireland, which is currently funded as part of the Northern Ireland Office.

B. Registration in Northern Ireland

The system of registration in Northern Ireland still depends on a qualifying period of three months, unlike Great Britain where it is now possible to apply for inclusion on the register as soon as a person has moved house.⁵ The three month requirement is long-standing and dates from original UK legislation requiring a qualifying period for registration. This period was repealed in Great Britain in the *Representation of the People Act 1948*. There have always been concerns in Northern Ireland that the qualifying period was necessary as a deterrent against Irish citizens taking up residence simply in order to vote in key elections there.⁶ As in Great Britain, Irish and Commonwealth citizens may vote in Northern Ireland elections, provided they fulfil the residency requirements.

In line with the rest of the United Kingdom, it is possible to be registered to vote in more than one area, provided that the appropriate electoral officer considers that the requirements in the *Representation of the People Act 1983* as to residence are satisfied.⁷ Many students, for example are registered in two places. The danger is that a second registration may be used by an elector to vote twice, or by another voter personating the absent registered voter. The CEO noted in evidence to the Northern Ireland Affairs Select Committee in 1998 that registration of family members and others who have since moved out of a household was one of the main areas of abuse of the register.⁸

⁴ HC 131 Session 2004-5, Summary

⁵ For details of the system of rolling registration, in operation since February 2001, see Library Standard Note 3031 *Electoral Register* at <http://hcl1.hclibrary.parliament.uk/notes/pcc/snpc-03031.pdf>

⁶ *Oliver Committee* Cmd 7004 1946

⁷ Northern Ireland was brought into line with Great Britain as a result of Northern Ireland Regulations

⁸ HC 316 1997-98 para 15 and CEO Evidence p1 and Q4

Until February 2001 a draft register appeared on 28 November of each year based on an annual canvass, with a form sent to the head of each household, who was under a legal obligation to complete it on behalf of the eligible members of the household. Before 1988 these forms were returned by post, but the CEO decided to reduce the scope for fraud by employing canvassers to collect door to door and assist householders with completion where necessary. Only after the canvasser has called three times, may the form be returned by post, without checking by the canvasser.⁹

When the draft register was published, there was a period until 16 December in which claims and objections could be made to the CEO in relation to the inclusion of specific names. This was work traditionally carried out by the political parties, who could use local knowledge to query where necessary. There were monthly claims hearings to decide upon additions to the register, but not deletions. Following the change in canvassing procedure, there was a sharp decrease in the number of objections accepted by the CEO, until the 1997 general election year. According to evidence presented by the then CEO to the Northern Ireland select committee, this indicated that the register was then thought to be generally reliable in Northern Ireland, although the reduction may also 'reflect a falling off in party activists' abilities to check names when more experienced party members retire'.¹⁰

From February 2001 a new system of rolling registration has operated in Northern Ireland; in line with the rest of the UK, where a revised register is issued monthly and claims and objections are made on a monthly basis. However, the three month residential qualifying period remains in force and there is still an annual canvass in the autumn with a new register published in December.¹¹ The decision to hold the Northern Ireland Assembly elections in November 2003 however delayed the production of the register until February 2004.¹² Copies of the register are available for inspection at the nine Area Electoral Offices and at district council offices and they are supplied free on request to political parties and candidates.¹³

A major change was introduced by the *Electoral Fraud (Northern Ireland) Act 2002* which replaced household registration with a system of individual registration and required electors to provide personal identification information before they could be registered.

⁹ *Administering Elections in Northern Ireland* para 3.2 Nearly 90 per cent of forms in 1997 were collected by canvassers HC 316 1997-98 Appendix 13, para 4

¹⁰ HC 316 1997-98 para 13

¹¹ *The Representation of the People (Northern Ireland) Regulations 2001* SI no 400, made under the *Representation of the People Act 2000*

¹² HC 131 2004-5, Memorandum from Northern Ireland Office, para 11

¹³ *The Representation of the People (Northern Ireland) Regulations 2001* SI no 400, para 47

II The *Electoral Fraud (Northern Ireland Act 2002)*

There has been concern about the level of electoral fraud in Northern Ireland for some years. There were a number of reports following the 1997 general election:

- The Northern Ireland Affairs Select Committee published its report: *Electoral Malpractice in Northern Ireland* in March 1998.¹⁴
- The Government response made a number of recommendations in two Special Reports of the Committee.¹⁵
- The Northern Ireland Forum Committee on Electoral Malpractice in 1997 published a report in October 1997.¹⁶
- The Northern Ireland Office review *Administering Elections in Northern Ireland* October 1998 was published in October 1998.¹⁷

Although electoral fraud is perceived to be a major issue in Northern Ireland elections, it has proved very difficult to obtain statistical evidence about the extent.

The Northern Ireland Affairs Select Committee report expressed concern about the extent of fraud in elections as a result of multiple registration:¹⁸

21. The complete extent of multiple registration whether on an organised scale or not is unknown. Nonetheless, the SDLP have produced some evidence that indicates that there are a surprisingly large number of voters in Northern Ireland who have the same name. Before the 1997 General Election, the SDLP discovered 18,000 names in West Belfast which appeared more than once on the electoral Register for the area. This compares with 6,000 on a London Register for an area which has a large Irish community. While this evidence is in no way conclusive, it raises some doubt about the reliability of the West Belfast Register.^[26] There can be no doubt about some cases, however. The SDLP challenged 204 entries on the Register for a small area of the Lower Falls in late

¹⁴ *Electoral Malpractice in Northern Ireland* HC 316 Session 1997-98

<http://www.publications.parliament.uk/pa/cm199798/cmselect/cmniaf/316ii/nis202.htm>

¹⁵ First Special Report HC 700 1997-98 Government Response to the Second Report of the Northern Ireland Affairs Committee

<http://www.publications.parliament.uk/pa/cm199798/cmselect/cmniaf/700s1/nis101.htm> Second Special Report HC 484 1998-9

<http://www.publications.parliament.uk/pa/cm199899/cmselect/cmniaf/484/48402.htm>

¹⁶ Presented to the Forum on 31 October 1997. This body was established following the 30 May 1996 elections as a deliberative forum. Research Paper 98/57 *Northern Ireland: Political Developments since 1972* gives background

¹⁷ Cm 4081 The Review was announced in July 1997 by the Secretary of State, primarily to look into the allegations of widespread malpractice made after the 30 May 1996 Forum elections. It was initially due to report by the end of November 1997. An interim report was appended to the Northern Ireland Affairs Select Committee report in March 1998, but the final report was not published until October 1998

¹⁸ *Electoral Malpractice in Northern Ireland* HC 316 Session 1997-98

<http://pubs1.tso.parliament.uk/pa/cm199798/cmselect/cmniaf/316ii/nis207.htm>

1996, partly to demonstrate the unreliability of the system. 101 of the objections were allowed. [27] :¹⁹

A white paper was issued in March 2001 *Combating Electoral Fraud in Northern Ireland*.²⁰ This was followed by the introduction of legislation in the form of the *Electoral Fraud (Northern Ireland) Bill 2001-2*.

The legislation made a number of changes to the registration process:

- Electors are registered as individuals, rather than in household units
- The CEO now requires electors to give their date of birth, National Insurance number and a signature when registering, as well as name and address
- Removal of the elector's name from the register if the personal identifiers are not completed is mandatory
- The register has a life of 12 months only and is renewed each year by the annual canvass and then supplemented by rolling registration

The Act also introduced a voluntary electoral ID card to be produced at polling stations, and required the absent voter's form to have confirmation of date of birth and signature. The legislation was complemented by the creation of one electronic database which would facilitate cross checking of multiple registration and multiple voting. The application of the provisions of the Act to Assembly, local government and European parliamentary elections was made by separate delegated legislation. The use of the 'carry forward' facility was abolished by the *Representation of the People (Northern Ireland) (Amendment) Regulations 2002*.²¹

The 2002 legislation has been recognised as successful in reducing fraud, according to the Northern Ireland Select Committee report of December 2004:

10. On the basis of the all the evidence currently available to us, we are satisfied that the Electoral Fraud Act (Northern Ireland) 2002 has been successful in reducing both the perception among the electorate of the prevalence of fraud and the actual level of electoral fraud, so far as it can be measured. The measures introduced in the Act have served to increase the level of public confidence in the integrity of the electoral process.²²

¹⁹ *Electoral Malpractice in Northern Ireland* HC 316 Session 1997-98
<http://pubs1.tso.parliament.uk/pa/cm199798/cmselect/cmniaf/316ii/nis207.htm>

²⁰ Cm 5080

²¹ In fact, the carry over facility had not been formalised in legislation until the *Representation of the People (Northern Ireland) Regulations 2001* in Regulation 34. See fn30 in *The Electoral Fraud (Northern Ireland) Act 2002* by the Electoral Commission

²² HC 131 2004-5

A. The effects on registration of the 2002 legislation

Individual registration was introduced in September 2002 and the first new register was published in December 2002. The number of names on the new register had fallen by about 10 per cent, representing 120,000 potential voters. For details about the effect on individual constituencies see the Appendix to this paper. It is important to note that the term ‘registration rate’ should be defined as the electorate registered each February as a percentage of the voting age population on census day, 29 April 2001. Not everyone resident in a constituency will qualify to vote and so the calculation will necessarily be inexact. A full explanation is available in the Appendix. Evidence from the EONI to the Northern Ireland Select Committee includes parliamentary constituency ward statistics for June 2004.²³

The register continues to contract, but at a slower rate. The December 2004 register had a drop of 2.6 per cent on the number contained in the September 2004 version of the register which represented a registration rate of 83.9 per cent.²⁴ A press release from the EONO gives total numbers for each constituency.²⁵

The Electoral Commission gave an undertaking to conduct research to establish the reasons for the decline. Their conclusions were published in December 2003.²⁶ The Commission noted that its information had come from public opinion surveys and focus groups as well as information and data provided by the Electoral Office of Northern Ireland (EONI). There was also consultation with the political parties. The Northern Ireland Select Committee also issued a report on electoral registration in December 2004.²⁷

The Electoral Commission report found evidence that the registration rate for the whole of Northern Ireland in August 2002, before individual registration was introduced, was 95.5 per cent. This was likely to have been in excess of the true numbers of people eligible to vote:

4.9 Registration rates for August 2002 varied across Parliamentary constituencies ranging from 77% in Belfast South to 103% in Mid-Ulster and Fermanagh and South Tyrone. Therefore in some constituencies there were actually more people on the electoral register than were accounted for in the Census figures. It may be that these differentials can be partly explained by the ‘carry forward’ and the inflationary factors referred to above. However, there is no evidence to suggest that these factors vary geographically, and therefore this does not help explain the

²³ See <http://www.parliament.the-stationery-office.co.uk/pa/cm200405/cmselect/cmniaf/131/131.pdf>

²⁴ HC 131 2004-5, para 18

²⁵ EONI *Publication of the New Electoral Register* 1 December 2004, available from <http://www.electoralofficeni.gov.uk/press/documents/PressRelease011204.pdf>

²⁶ *The Electoral Fraud (Northern Ireland) Act 2002: An assessment of its first year in operation*

²⁷ HC 131 2004-5

differences in registration rates between constituencies.²⁸

The report found that a significant factor was the mismatch between where people live and where they are registered, citing students, in particular, who tend to be registered at their home address rather than where they live. It found that ward level registration rate varied from 41 per cent to 126 per cent in August 2002.²⁹ Wards with lower levels of registration contained high concentrations of student residencies while the presence of army bases and a prison also tended to depress registration rates. Wards with high levels of registration tended to be located in rural areas in the west and south of Northern Ireland.³⁰ The largest decreases between August 2002 and the new December 2002 register were in the four Belfast constituencies, with Belfast West registering a 18 per cent reduction.

1. Carry-Over

Evidence from the Chief Electoral Officer indicated that 10 per cent of names on the register had been carried forward each year until abolition of the facility.³¹ The Electoral Commission report noted that the higher non-registration rate was largely explained by the fact that the carry forward facility no longer applied.³²

This conclusion was also supported by the Northern Ireland Select Committee:

39. The Electoral Commission has concluded that the removal of the carry-forward mechanism is likely to be the most important factor by far in the decline in the level of voter registration following the introduction of the 2002 Act. According to the Chief Electoral Officer, the response rate in canvasses has not changed with the introduction of the new system. The rate of responses has in the past been approximately 90%, and in the December 2002 canvass, the response rate was also about 90%. The difference is that whereas the non-responding 10% in the past would have been given one year's grace and left on the register, under the new system the 10% are now immediately removed from the register[53]. Both the Electoral Commission and the Chief Electoral Officer indicate that the drop in registrations of about ten percentage points is likely to result primarily from the fact that approximately 10% of names are no longer carried forward from one register to the next[54].³³

²⁸ See http://www.electoralcommission.org.uk/files/dms/ElectoralFraudActFinalpdf_11266-8891__E__N__S__W__.pdf.

²⁹ These were the Botanic ward in Belfast South and the Forkhill ward in Newry and Armagh respectively

³⁰ Ibid para 4.18

³¹ Northern Ireland Select Committee report HC 131 2004-5 Minutes of Evidence 2 April 2003 from EONI

³² *The Electoral Fraud (Northern Ireland) Act 2002* Electoral Commission December 2003, Executive Summary

³³ *ibid*

Both the Committee and Commission acknowledged that other factors apply to explain the reduction in registration:

- Reduction in fraud, but there is no quantifiable evidence of the numbers
- Failure to register, due to voter apathy, or concerns about disclosure of personal information
- Young people in particular are disproportionately under-registered since the change to individual registration

Although the major drop in registration took place in 2002, the register continues to contract. The Select Committee assessed the argument that there were structural factors leading to continuous decline in registration:

18. A pattern appears to be emerging for the number of registered electors to decline at each canvass only to show a slow increase thereafter as a consequence of rolling registrations. The Electoral Commission pointed to evidence suggesting "an emerging downward trend in the electoral register." Although this evidence was limited because the new system had been in operation for 18 months at the time, the Commission considered that "nonetheless the available 'like-for-like' comparisons indicate that the register is falling by about 1.5-2 per cent per annum."[\[22\]](#) This view is backed up by the 2004 canvass results, published on 1 December 2004, which show a further decline in the register to a registration level of just 83.9%.

This finding is a particular cause for concern in Northern Ireland because the adult population of Northern Ireland is increasing at a rate of 0.7% per annum.[\[23\]](#) The Electoral Commission warned that:

"...unless it is rectified, the downward trend in the register has the potential of embedding itself structurally in the registration process. If the register is in decline, then the number that can be canvassed will also tend to fall from one canvass to the next, thus reinforcing the cycle."[\[24\]](#)

The registration rate in May 2004 had declined to just 84.8% of those eligible for inclusion on the register

However the Select Committee found there to be disagreement between the Electoral Commission and the CEO as to the need to reinstate a carry-over facility:

40. While there is agreement between the Electoral Office and the Electoral Commission about the main cause of the drop in voter registrations, the view of the Electoral Office that a system of carry-forward should be introduced is not shared by the Electoral Commission.[\[55\]](#) The view of the Chief Electoral Officer was that in the absence of a carry-forward mechanism, the register's year-on-year decrease was inevitable and he argued for a revised system of carry-forward:

"...I would like...to go further than simply having the carry forward, I would like to see a register that had occurrence of perhaps three years. I see the reinstatement of the carry forward as in effect giving us a register with a lifetime of two years but I think it would be better to have a register with a period of three years. I think we could then spend our resources and time in the interim period looking out and finding those people who are in the marginalised groups and getting them on to the register, getting them into the system rather than going around and

finding the same people who year on year conscientiously complete their forms and send them in. I think we could spend our time and our money in a much better way to a better effect as far as the register is concerned" [56]

However, Mr Singh of the Electoral Commission thought that carry-forward in the current circumstance held dangers, "...if you simply reintroduce the carry forward facility for a new system of individual registration...there is a concern we would have this might actually muddy the waters and actually perhaps lead to needless duplication." [57]

The CEO considers that the effort needed to compile a 12 month register necessitating the completion of application forms annually, is disproportionate, but the Electoral Commission report of December 2003 argued that the carry forward facility "tended to cloud the electorate's understanding of the link between registering and voting. Our research found that the requirement to register every year was not widely understood by the electorate, with 4 in 10 people aware that they had to do so."³⁴ It opposed its reintroduction since its removal had led to a more accurate and robust register.

III Government Proposals

John Spellar, Minister of State for Northern Ireland, made a written ministerial statement on 30 November 2004 and indicated that primary legislation might be brought forward to end the requirement for the register to be renewed annually:

The Government are determined to ensure that as many people as possible both secure and use their right to vote. Our goal is an electoral register that is both as accurate and as comprehensive as possible. In the light of that, I can announce today that the Government are committed to moving away from the legal requirement for the register to be completely refreshed each year. This will reduce the burden on the individual citizen. And it will allow resources to be redirected towards targeting those groups where rates of registration are low.³⁵

But he also announced the Government intention to reinstate carry-over as an interim measure ahead of the May 2005 elections.

However, in the light of the concern about falling numbers registered and the local elections due in Northern Ireland next May, the Government have decided that, if parliamentary time allows, we will legislate before then to allow the chief electoral officer to reinstitute the carry forward as a temporary measure. This would permit the CEO to reinstate the names of those individuals registered on 1 September 2004 who have not re-registered during this year's canvass so that they reappear on the first monthly register published after the legislation has been enacted.³⁶

³⁴ *The Electoral Fraud (Northern Ireland) Act 2002* Electoral Commission December 2003 Para 6.10

³⁵ HC Deb 30 November 2004 c28WS

³⁶ HC Deb 30 November 2004 c28WS

This decision was not fully welcomed by the Select Committee which preferred separate retention of a list of people who fail to respond to the annual canvass and the retention of a register with a lifespan of 12 months:

43. There is little doubt that the decline in registrations results largely from the abolition of the carry-forward mechanism. Ways must be sought to counter the unfortunate effect of a sound decision. This change was crucial in eliminating 'phantom' names from the register and we do not recommend the re-introduction of the former carry-forward mechanism. It is also our view that the lifespan of the electoral register should be maintained at 12 months.

44. There is clearly a need for urgent action, but we believe that alternative and perhaps unconventional options should be explored. For example, it could be worthwhile exploring a compromise in which people who fail to respond to a canvass are excluded from the register but their details are retained for a further twelve months in order that they can be canvassed again the following year. Such a solution might give rise to data protection issues, but it may be worth considering whether these could be resolved.

45. We are puzzled that the views of the Electoral Commission and the Electoral Office of Northern Ireland differ markedly as to whether or not a system of carry-forward should be implemented. This issue is of considerable importance to the electoral process in Northern Ireland and we expect the Electoral Commission and the Electoral Office to examine the issue together and come to a clear conclusion which best ensures the integrity of the register. For example, it could be worthwhile exploring a compromise in which people who fail to respond to a canvass are excluded from the register but their details are retained for a further twelve months in order that they can be canvassed again the following year. Such a solution might give rise to data protection issues, but it may be worth considering whether these could be resolved.

A. Timing of the Northern Ireland local elections

On 20 January 2005, John Spellar, the Minister of State for Northern Ireland, made a written ministerial statement, announcing that the Government intended to change the date of local elections held in Northern Ireland. The Order that was laid to implement this change would effect a permanent change:

The Minister of State, Northern Ireland Office (Mr. John Spellar): I am announcing today an Order in council has been laid to move the date of local elections in Northern Ireland on a permanent basis from the third Wednesday in May to the first Thursday in May. If this measure is accepted by Parliament and the Privy Council it will mean that the Northern Ireland local elections due on Wednesday 18 May 2005 will now take place on Thursday 5 May.

This measure brings local election dates in Northern Ireland into line with the rest of the UK. The Government discussed this step in advance with both the Chief Electoral Officer of Northern Ireland and the Electoral Commission.³⁷

The last date for an elector to apply to be on the electoral register in time to vote for the Northern Ireland local elections on the new date of May 5 will be 11 March 2005. This will enable them to appear on the register for 1 April.³⁸ The Bill will enable the CEO to reinstate former electors in the version of the register by 1 April, which will be the register in use for any election on 5 May 2005. There has been considerable speculation that a general election may also be called for 5 May 2005. Although there are separate registers for parliamentary and local elections, s9(5) of the *Representation of the People Act 1983* as applied by the *Elected Authorities (Northern Ireland) Act 1989* requires combination of registers, as far as practicable.

B. The Bill

The Bill has four clauses and is intended to come into effect immediately on royal assent. It is intended to last 12 months only and then expire, unless renewed by order under clause 3(2). This order is subject to the affirmative procedure and renewal may take place for one 12 month period only.

Clause 1 gives the CEO power to reinstate on the electoral register the names of those removed following the canvass of 15 October 2004, who failed to complete the annual canvass form, or completed it inaccurately. The re-registration takes effect on 1 April 2005. However the CEO may not re-register if he has evidence that the registration conditions set out in the *Representation of the People Act 1983* have not been met. The *Explanatory Notes* state:

15. The personal identifiers given by a former elector when he originally registered will be kept when he is restored to the register. An elector's previous expressed request for his name and address to be excluded from the edited version of the register will still be binding.

Clause 2 modifies the operation of s10A of the *Representation of the People Act 1983* to enable the CEO to carry forward the names of electors who failed to submit an annual canvass form, or who failed to submit all the personal identifiers for the form. This will enable the same exercise for 2005/6 in that non responders will be carried over to the December 2005 register. The modifications have temporary effect only, as set out in the *Explanatory Notes*:

³⁷ HC Deb 20 January 2004 c46WS

³⁸ *The Representation of the People (Northern Ireland) Regulations 2001* SI no 400. See Library Standard Note 3363 *Registering to Vote: Deadlines* at <http://hcl1.hclibrary.parliament.uk/notes/pcc/snpc-03363.pdf> See also Library Standard Note no 3385 *Election Timetables* for details of the combined electoral timetable for 5 May at <http://hcl1.hclibrary.parliament.uk/notes/pcc/snpc-03385.pdf>

18. For example, in relation to the canvass conducted by reference to residence on 15th October 2005, the CEO may carry forward to the register published on 1st December 2005 the name of an elector who was registered in the previous version of that register even though the CEO cannot be sure - because of the elector's failure to submit the canvass form, or to include on that form all the personal identifiers - that the elector is still resident at the same address. But the CEO will not be able to carry forward the elector's name if he has information suggesting that the elector is no longer resident at that address.

19. The carry forward of an elector's name lasts for up to one year, even if clause 2 is continued in force for more than a year. An elector whose name is carried forward to the register published on 1st December 2005, but who fails to submit a canvass form (or submits an incomplete form) in relation to the canvass conducted by reference to residence on 15th October 2006, will have his name removed from the register by virtue of section 10A(6) of the 1983 Act.

20. New subsection (7A) also ensures that the power to carry forward the name of an elector does not apply to an elector whose name has been restored to the register by virtue of clause 1 and who has not subsequently completed a canvass form or an application for registration.

C. The passage of the Bill in the Lords

At second reading of the Bill in the Lords on 21 February the Leader of the House, Baroness Amos, said that the CEO had checked all personal identifiers against the central data base held by the Department for Work and Pensions, and individuals whose identifiers did not match would be contacted for clarification. She stressed that the bill was necessary in order to return the 83,000 electors to the register in time for 1 April 2005, and noted that originally the clauses had been planned for a larger bill consequent on the political talks before Christmas 2004³⁹ During her winding up speech, she said that:

The anti-fraud measures having worked, the register having been cleaned up, we now feel confident to enable carry-over as we have in Great Britain but for a one year period, so that people understand what they need to do and to give us a breathing space to talk to the parties and think about the longer-term process.⁴⁰

For the Liberal Democrats, Lord Smith of Clifton, deplored the possible weakening of the application of the *Electoral Fraud (Northern Ireland) Bill*. He argued that the Bill set a bad precedent and said that the Government should have provided more information about the longer term reforms to be implemented after this temporary measure.⁴¹ Lord Maginnis of Drumglass also opposed the bill, as undermining anti-fraud measures.

³⁹ HL Deb 21 February 2005 c992

⁴⁰ HL Deb 21 February 2005 c1004

⁴¹ HL Deb 21 February 2005 c997

At committee stage Lord Smith proposed an amendment to allow the CEO to carry out an additional canvass of the 83,000 people identified as not carried over, before 18 March. He then withdrew the amendment, due to lack of Government support.⁴² Lord Shutt of Greetland, Liberal Democrat spokesperson for Northern Ireland, proposed an amendment to allow registration up to the deadline of candidate nomination, which he said would assist with the registration of young people. In response Baroness Amos said that the most effective way to ensure the return of the names was to add them to the register by 1 April.⁴³ The amendment was defeated by 140 votes to 61. There was no further debate on the remaining stages, and the Bill passed the Lords later that day.

IV Reform of registration in Northern Ireland- wider issues

Initiatives in Northern Ireland to improve the efficiency of electoral registration offer some opportunities for policy makers to assess the potential implications for more widespread adoption in other parts of the UK. There has been concern for some time about the proportion of the voting age population which is registered and the Electoral Commission has made proposals which would involve adopting a system of individual registration. The details are set out in its report of May 2003 *The Electoral Registration Process* and summarised in its June 2003 report *Voting for Change*.⁴⁴ Library Standard Note 3083 *Electoral Register* gives further details.⁴⁵

The ODPM/DCA Select Committees are currently conducting a joint inquiry into electoral registration and evidence to the inquiry is available from the ODPM Committee website. The Electoral Commission evidence lists the advantages of individual registration over household registration as follows:

4.5 In addition to the overriding principle that a right as fundamental as voting should only be secured by personal initiative (no-one would suggest, for example, that voting itself should be exercised by the head of household on behalf of other householders), the Commission has identified five main reasons for recommending a move to individual rather than household registration:

- Consistency;
- Enhanced compliance with data protection and human rights legislation;
- Increased participation, over time;
- Increased security and accuracy;
- Support for modernisation of voting arrangements.⁴⁶

The Government have however cited the Northern Ireland experience and have argued that it is not the appropriate time for its introduction to the rest of the UK:

⁴² HL Deb 22 February 2005 c1128

⁴³ HL Deb 22 February 2005 c1130-1134

⁴⁴ Both reports are available from <http://www.electoralcommission.gov.uk/about-us/policyreports03.cfm>

⁴⁵ Available from <http://hcl1.hclibrary.parliament.uk/notes/pcc/snpc-03031.pdf>

⁴⁶ HC 243-ii 2004-5 Memorandum from the Electoral Commission

11. The introduction of individual registration in Northern Ireland was a successful response to an issue specific to Northern Ireland. However, given the experience of a reduction in levels of registration, and while the work to reform Northern Ireland's registration system further to ensure that registers are complete as well as accurate is not concluded, the Government does not believe that it would be appropriate to introduce the system in place in Northern Ireland to the rest of the UK at this time.⁴⁷

As well as the issue of individual versus household registration, there is the question of the future of the carry over procedure in Great Britain. The Electoral Commission have accepted the need for its continuance, as noted in the evidence from the Chairman of the Commission, Sam Younger, on 25 January 2005 (see below). There are particular groups which have tended to be under-represented in the electoral register.

1. Young people

The Northern Ireland Select Committee found that the number of 18-24 year olds not registered had grown to 33 per cent in July 2004, up from 29 per cent in December 2002. The non-registration level for the same age group in England, Scotland and Wales was only 11 per cent. The number of attainers (17-18 year olds) on the register was only 20-25 per cent⁴⁸. The main reason for the decline of registration appears to be the move from household to individual registration, a consequence which is likely to be relevant to the debate on increasing electoral registration in the rest of the UK.

The Select Committee recommended that:

- consideration be given to making information about electoral registration a compulsory part of the curriculum for 16-17 year olds
- adults in households should be made responsible for identifying to EONI young people of 17 living in their households, as currently occurs in Great Britain⁴⁹

The Electoral Commission noted in its written evidence to the ODPM/DCA Select Committee:

- 4.10 Although the experience of introducing individual registration to Northern Ireland might suggest an initial impact of a drop in registration rates (the Commission is happy to expand on this point in oral evidence), we believe that the ultimate outcome of individual registration should be to empower and encourage some under-registered groups to participate in the democratic process and vote. For example, 18-24 year olds are the least likely of all age groups to vote^[11] and our research shows that many have

⁴⁷ Memorandum from the DCA/ODPM to the ODPM/DCA Select Committees at <http://www.publications.parliament.uk/pa/cm200405/cmselect/cmmodpm/243/243we03.htm>

⁴⁸ HC 131 2004-5 para 21

⁴⁹ *ibid* para 27

little idea of how to register or even of the need to register. This may be exacerbated by the fact that their parents or (if students in university accommodation) hall warden do the job for them. Within our current system of household registration, these young people risk growing into householders who are unaware of their responsibilities in relation to registration. Inculcating the habit of registration from an early age could be beneficial in maximising registration rates in later life.

Sam Younger, was asked to justify the Commission recommendation when he appeared before the ODPM/DCA Committee on 25 January 2005:

Q25 Mr O'Brien: May I press you on the implementation of the individual registration? In your written evidence, you have advised that a possible staged approach might include reducing the frequency of annual canvass. What plans have you developed for a phased approach to the implementation of individual registration? Over what period of time do you envisage this being introduced?

Mr Younger: As we mentioned before, we have not really pinned this down. There is a recognition, particularly looking at the experience of Northern Ireland and perhaps one would even have reached this conclusion without the experience of Northern Ireland, that a significant change to the system is one that you need to be very careful about, if you are not going to lose people off the register. Certainly much of the discussion of those who have been sceptical has been a very genuine worry, particularly parents who say "I fill in the form for my household and I put my 20-year-old and my 19-year-old on it as well as my wife and myself and I am afraid that if I did not do it, they would not get on". We have to deal with that, because that is very real. Making a staged approach, so that, whatever register we have at the time we move to individual registration, we do not, as it were, dump it overnight, but have a period of maybe two, maybe three years where you do not push people off the register who were on it before individual registration, has to be allied with a good deal more work on targeted campaigns to get people to be on the register.⁵⁰

2. Socially and economically deprived and people with disabilities

The Northern Ireland Select Committee found that in the 20 wards with the greatest decline in electoral registrations, the percentage of people on income support and jobseekers allowances (33 per cent) was significantly above the Northern Ireland average of 17 per cent.⁵¹ It also found problems with the registration of people with disabilities, noting the Electoral Commission observations that the move to individual registration might have inadvertently affected those with learning disabilities. The Chief Electoral Officer has however denied that this has led to significant disenfranchisement:

⁵⁰ HC 243-I 2004-5 Uncorrected oral evidence to the ODPM/DCA Committees 25 January 2005 at <http://www.publications.parliament.uk/pa/cm200405/cmselect/cmconst/uc243-i/uc24302.htm>

⁵¹ *ibid* para 28

34. Under the current arrangements for individual registration, a parent or carer of a person with a learning disability or mental health problem may sign on that person's behalf. Thereafter they receive a letter from the Electoral Office in which they are asked to confirm that the person in question would "be capable of personally making a decision for whom to vote, without the assistance of another person". MENCAP claims that this procedure is liable to lead to eligible persons being omitted from the register, and that the letter "can be read as if to emphasise the denial of registration." MENCAP argues that the letter should be worded in a more positive manner. Based on information from the Chief Electoral Officer, the Electoral Commission states that approximately 1,000 such letters were sent out to carers, but of these, only 120 carers / relatives subsequently confirmed the request for registration.^[47] However, the Chief Electoral Officer defended current practice:^[48]

"We have had quite a number of people who have accepted that, having attested on behalf of someone else, that person should not be on the register. Therefore we have a number of people who previously, under the old family system, were probably wrongly included on the register and really should not have been there, but that has now come to light under individual registration and as a result some people with learning disabilities have been taken off the register. That is perhaps the way it should be: people who are not capable of making up their own minds should never have been there in the first place."^[49]

However, it seems unlikely that such a high proportion of carers (nearly 90%), would have submitted an electoral registration form on behalf of their relative or friend without due consideration for the mental capacity of the person being registered. The Electoral Commission has admitted that "the process of individual registration may inadvertently have impacted on people with learning disabilities, thus effectively disenfranchising hundreds of people who in the past may have voted."^[50]⁵²

In evidence to the ODPM/DCA Select Committees, the disability charity SCOPE has recommended a move to individual registration.⁵³ The ODPM/DCA Committees have not yet produced a report.

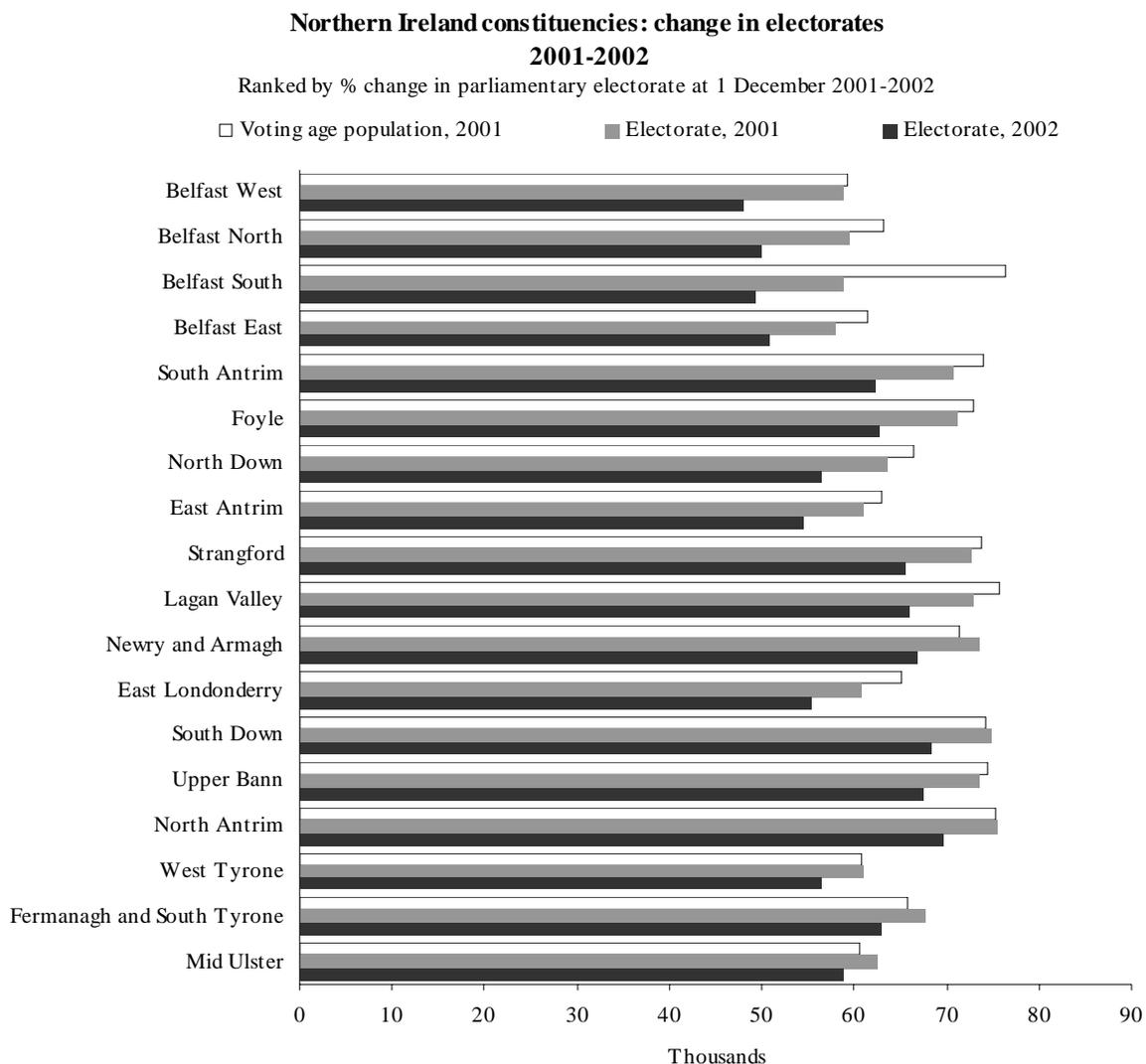
⁵² HC 131 2004-5

⁵³ HC 243-I 2004-5

Appendix: The Northern Ireland electorate⁵⁴

The Northern Ireland parliamentary electorate fell by 125,000, or 10.5 per cent, between the December 2001 and December 2002 registers.

The chart below shows this fall at parliamentary constituency level. It also compares the electorate to the voting age population on census day, 29 April 2001. It is important to note that not everyone resident in a constituency is entitled to vote in parliamentary elections: non-UK, Ireland or Commonwealth citizens, prisoners and members of the House of Lords are among those groups excluded.⁵⁵



⁵⁴ This Appendix was supplied by Adam Mellows-Facer, Social and General Statistics section.
Sources: ONS, *Electoral Statistics*, various; ONS, *Census 2001 Parliamentary Report*; NISRA, *Northern Ireland Census 2001 Key Statistics*

⁵⁵ The Electoral Commission factsheet, *Who can vote?* Provides more details:
http://www.electoralcommission.gov.uk/files/dms/Whocanvote_14157-6144_E_N_S_W_.pdf

- In six of the 18 constituencies, there were more electors on the February 2001 register than there were residents of voting age on census day.
- The electorate of each of the 18 constituencies fell between the 2001 and 2002 registers.
- The largest falls in electorate in percentage terms were in the four Belfast constituencies. The electorate in Belfast West fell by 18 per cent.
- The smallest percentage fall was six per cent, in Mid Ulster.
- The electorate has continued to fall: by a further 10,000 or one per cent, between December 2002 and February 2005.

The table below shows a full breakdown of recent trends in parliamentary electorates:

Northern Ireland parliamentary electorates 2001-2005 and voting age population on census day

	Registered electors by date of register					VAP
	Feb-01	Dec-01	Dec-02	Feb-04	Feb-05	Apr-01
Belfast East	59,044	57,954	50,891	49,930	49,142	61,438
Belfast North	61,646	59,592	49,905	49,054	46,787	63,254
Belfast South	59,937	58,769	49,234	49,207	47,533	76,381
Belfast West	60,377	58,863	48,126	47,139	47,148	59,260
East Antrim	61,597	61,006	54,521	54,644	54,079	63,031
East Londonderry	60,968	60,824	55,417	55,184	55,256	65,199
Fermanagh and South Tyrone	67,561	67,785	62,980	62,869	62,901	65,679
Foyle	71,835	71,184	62,762	62,321	62,191	72,880
Lagan Valley	73,494	72,932	65,885	65,545	66,303	75,814
Mid Ulster	62,165	62,462	58,780	58,874	58,921	60,548
Newry and Armagh	73,369	73,542	66,765	67,368	67,416	71,442
North Antrim	75,384	75,577	69,695	69,882	70,537	75,240
North Down	63,944	63,521	56,536	56,030	55,643	66,505
South Antrim	71,316	70,843	62,302	62,906	61,457	73,951
South Down	74,555	74,845	68,271	68,433	68,673	74,280
Strangford	72,948	72,657	65,510	64,718	64,651	73,775
Upper Bann	73,471	73,508	67,546	67,537	67,616	74,367
West Tyrone	61,486	61,106	56,474	55,923	55,418	60,709
Northern Ireland	1,205,097	1,196,970	1,071,600	1,067,564	1,061,672	1,233,753

Sources: ONS, *Electoral Statistics*, various
 ONS, *Census 2001 Parliamentary Report*
 Electoral Office for Northern Ireland, *Electorate Statistics 2005*

- ‘Registration rates’, defined here as the February 2005 electorate as a percentage of the voting age population on census day, 29 April 2001, vary from 62 per cent in Belfast South to 97 per cent in Mid Ulster. The four lowest registration rates are in the four Belfast constituencies. The registration rate across Northern Ireland by this method is 86 per cent.⁵⁶

⁵⁶ These calculations take no account of population changes since the census or the ineligibility of certain groups to register to vote.

