

EXPLANATORY MEMORANDUM TO

THE DRAFT REPRESENTATION OF THE PEOPLE (PROVISION OF INFORMATION REGARDING PROXIES) REGULATIONS 2013

2013 No. [XXXX]

1. This explanatory memorandum has been prepared by the Cabinet Office and is laid before Parliament by Command of Her Majesty.

2. Purpose of the instrument

2.1 These Regulations allow Electoral Registration Officers (EROs) to require information from other EROs to check whether a person, before their appointment to cast a proxy vote, is registered to vote in Great Britain or Northern Ireland. This is a condition of their appointment under paragraph 6 of Schedule 4 to the Representation of the People Act 2000. They also impose a duty on an ERO to supply this information if requested to do so about someone resident in their registration area.

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

3.1 None

4. Legislative Context

4.1 These regulations are made under the powers conferred by section 53(3) of and paragraph 5B of Schedule 2 to the Representation of the People Act 1983.

5. Territorial Extent and Application

5.1 This instrument applies to Great Britain and Northern Ireland.

6. European Convention on Human Rights

6.1 The Minister of State for Cabinet Office (Cities and Constitution) has made the following statement regarding Human Rights:

In my view the provisions of the Draft Representation of the People (Provision of Information Regarding Proxies) Regulations 2013 are compatible with the Convention rights.

7. Policy background

7.1 These Regulations allow any ERO in Great Britain to request information about the registration status of a person nominated to cast a proxy vote for an elector in their area from the nominated person's ERO. The nominated person's ERO (in Great Britain or Northern Ireland) must provide this information, when requested, as soon as reasonably practicable. Proxy voting is not currently

allowed under Northern Irish electoral law, but electors there may act as proxies for electors in Great Britain.

- 7.2 Under paragraph 6 of Schedule 4 to the Representation of the People Act 2000, a person appointed as a proxy must either already be registered to vote in the same type of poll (i.e. Parliamentary or Local Government) or ‘will be’ so registered, meaning that they have successfully applied but not yet been added to the register. This paragraph was amended by section 3 of the Electoral Registration and Administration Act 2013 and comes into force when that section is commenced, which will be at least one day after the day on which this instrument is made. This instrument will come into force on the day section 3 comes into force.
- 7.3 Following the first canvass of the transition to Individual Electoral Registration and the publication of the resulting revised register (by 1 December 2014 in England and Wales and 28 February 2015 in Scotland) any person casting a proxy vote or having one cast for them must be individually registered. EROs will then need to check whether existing proxies and those nominated to become proxies are individually registered, either through a successful application or having been ‘confirmed’ on the register through data-matching. A provision similar to these regulations but relating to checking registration status for existing proxies was included in article 25 of the Draft Electoral Registration and Administration Act 2013 (Transitional Provisions) Order 2013. During the period between the publication of the revised registers in England and Wales and in Scotland, any electors in Scotland appointed acting as proxies for electors in England and Wales will need to be individually registered, even though this is not required for them to act as proxy within Scotland.
- 7.4 Consolidation: The Law Commission is currently undertaking a review into electoral law.

8. Consultation outcome

- 8.1 The Electoral Commission has been consulted on this instrument as required by section 7(1) of the Political Parties, Elections and Referendums Act 2000. In addition, the Cabinet Office consulted with the Information Commissioner.
- 8.2 The Electoral Commission had no comments on the instrument. The Information Commissioner’s Office did not feel that the instrument raised any new or significant data protection issues, but urged that attention the Data Protection principles when EROs handle and share personal data.

9. Guidance

- 9.1 The Electoral Commission will continue to issue guidance to EROs about electoral registration, including all aspects of the operation of IER.

10. Impact

- 10.1 There is no impact on business, charities or voluntary bodies.
- 10.2 A separate full regulatory impact assessment has not been prepared for this instrument because no impact on the private, public or voluntary sectors is foreseen.

11. Regulating small business

11.1 The legislation does not apply to small business.

12. Monitoring & review

12.1 These Regulations make a minor change to enable EROs to conduct checks when appointing proxies. No monitoring or review of its effect is planned.

13. Contact

Carol Gokce at the Cabinet Office, tel 0207 271 2679: email: carol.gokce@cabinet-office.gsi.gov.uk can answer any queries regarding the instrument.