

**EXPLANATORY MEMORANDUM TO**  
**THE POLICE AND CRIME COMMISSIONER ELECTIONS (AMENDMENT)**  
**ORDER 2014**

**2014 No.**

1. 1.1 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 This instrument makes changes to the rules for the administration and conduct of elections of Police and Crime Commissioners. In doing so, it reflects electoral conduct provisions in the Electoral Registration and Administration Act 2013 (c.6) (the “ERA Act”) and associated secondary legislation for the purposes of these elections.
3. **Matters of special interest to the Joint Committee on Statutory Instruments**
  - 3.1 This instrument is laid in draft together with the draft Representation of the People (Combination of Polls) (England and Wales) (Amendment) Regulations 2014 (the “2014 Regulations”). The 2014 Regulations will amend the Representation of the People (Combination of Polls) (England and Wales) Regulations 2004 (S.I. 2004/294) to make provisions about the combination of polls at elections and referendums. The 2014 Regulations cannot make provision about the combination of Police and Crime Commissioner elections, because the power to make such provision is the order-making power in section 58(1) of the Police Reform and Social Responsibility Act 2011 (c.13). Article 3 of this instrument therefore applies, for the purposes of Police and Crime Commissioner elections, the changes made by the 2014 Regulations.
4. **Legislative Context**
  - 4.1 The instrument amends the Police and Crime Commissioners Elections Order 2012 (S.I. 2012/1917) (the “2012 Order”) which sets out the rules governing the conduct of elections of Police and Crime Commissioners in England and Wales.
  - 4.2 Many of the provisions in the instrument replicate, for elections of Police and Crime Commissioners, amendments that have been made for the conduct of UK Parliamentary elections by the ERA Act and the Representation of the People (England and Wales) (Description of Electoral Registers and Amendment) Regulations 2013 (S.I. 2013/3198) (the “2013 Regulations”).
  - 4.3 The instrument is part of a wider package of Statutory Instruments which make various changes to the rules for conducting elections and referendums and include the European Parliamentary Elections (Amendment) Regulations 2013 (S.I. 2013/2876) and the 2013 Regulations.

- 4.4 The powers under which this instrument is to be made are exercisable concurrently by the Secretary of State and the Lord President of the Council by virtue of the Transfer of Functions (Elections) Order 2014 (S.I. 2014/268).

## **5. Territorial Extent and Application**

- 5.1 The instrument applies in England and Wales.

## **6. European Convention on Human Rights**

- 6.1 Greg Clark, the Minister of State for Cities and the Constitution, has made the following statement regarding Human Rights:

“In my view the provisions of the Police and Crime Commissioners Elections (Amendment) Order 2014 are compatible with the Convention rights.”

## **7. Policy background**

- 7.1 Part 1 of the Police Reform and Social Responsibility Act 2011 provides for the establishment of a directly elected Police and Crime Commissioner for every force in England and Wales outside London. The core functions of the Police and Crime Commissioner are to secure the maintenance of an efficient and effective police force, and to hold the chief constable to account for the exercise of his functions.

- 7.2 The instrument makes provision for a number of changes to the administration and conduct of elections of Police and Crime Commissioners in England and Wales. Many of these changes have been made for parliamentary elections by Part 2 of the ERA Act and the 2013 Regulations.

- 7.3 These changes are being made now, in conjunction with changes to other electoral legislation, so they can have effect at polls that take place on 22 May 2014 (the scheduled date for European Parliamentary elections and local government elections) and thereafter. They are designed to improve the accessibility and security of the voting process, and implement a number of recommendations which have been made by (amongst others) the Electoral Commission and the Association of Electoral Administrators.

- 7.4 The instrument will do the following:

- Change the timing of certain proceedings which will ensure there is greater consistency with the position at other elections, and will facilitate the earlier despatch of postal votes. In particular: the deadline for candidates to submit their nomination papers becomes 4pm on the 19<sup>th</sup> working day before polling day; the deadline for candidates to withdraw their nomination is moved from noon on the 16<sup>th</sup> working day before polling day to 4pm on the 19<sup>th</sup> working day before polling day; and the deadline for the publication of the statement of persons nominated becomes 4pm on the eighteenth working day before polling day. These changes will support changes being made elsewhere (in the ERA Act and associated secondary legislation) to enable postal votes to be issued to postal voters sooner than at present.
- Remove the restriction on postal votes being despatched earlier than the 11th working day before the day of the poll.

- Enable postal voters to cancel their postal vote following receipt and arrange instead to vote in person or by proxy, provided they do this before the postal vote application deadline (i.e. at least 11 working days before the poll) and that the postal ballot papers have not been completed and returned to the Returning Officer. This ensures the current flexibility afforded to voters to change their voting arrangements is maintained when postal voting packs are dispatched earlier than they are at present.
- Update voting forms for accessibility reasons. The intention is to ensure that the forms which voters use at elections are as clear and easy to use as possible to improve the voter's experience and encourage more effective engagement in the voting process.
- Provide that voters waiting in a queue at the close of poll (i.e. at 10pm on polling day), for the purpose of voting, may be issued with a ballot paper, and that those in the queue for the purpose of returning a postal ballot paper or postal voting statement may return it.
- Enable Police Community Support Officers to enter polling stations and counting venues under the same conditions as police constables. This ensures that the changes made by the ERA Act to the parliamentary elections rules are reflected for these elections.
- Establish a system of postal vote identifier rejection notifications (PVIRN). Electoral Registration Officers (EROs) will inform electors after a poll where the signature or date of birth (known as "postal vote identifiers") which they supply on the postal voting statement failed to match those held on record or had simply been left blank. This is to help to ensure those voters can participate effectively in future elections and not have their ballot papers rejected at successive polls because of a signature degradation or because they are making inadvertent errors. EROs will not be obliged to inform individuals where fraud is suspected.
- Ensure that 100% of postal vote identifiers on postal voting statements are checked against those held on record, rather than the current minimum of 20%. This reflects practice by Returning Officers at recent national elections, and ensures all postal votes are subject to the same high level of scrutiny.
- Extend "emergency" proxy provisions to those absent on the grounds of business or service. This is to ensure that those who are absent at short notice for business or service reasons are eligible to apply for an emergency proxy vote in the days before the referendum.

## **8. Consultation outcome**

8.1 The Electoral Commission has been consulted on the instrument. In addition, we have consulted informally with representatives of the Association of Electoral Administrators and the Society of Local Authority Chief Executives. The changes to the forms are in line with changes made to forms for other polls in other instruments on which we have consulted interested bodies, in particular, SCOPE, and which were subject to a programme of public user testing.

8.2 The Electoral Commission's response welcomed the Government's approach to the updating of the conduct rules for these elections.

## **9. Guidance**

9.1 The Electoral Commission will continue to issue guidance relating to the conduct of elections.

## **10. Impact**

10.1 The attached impact assessments were produced relating to the conduct elements of the ERA Act and remain applicable to this instrument. A separate full regulatory impact assessment has not been prepared for this instrument because no significant impacts on the private, public or voluntary sectors are foreseen, other than those set out in the attached impact assessments prepared for the ERA Act.

## **11. Regulating small business**

11.1 The legislation does not create new regulatory burdens for small business.

## **12. Monitoring & review**

12.1 The Cabinet Office keeps all electoral legislation under review to ensure it continues to support electors' participation in elections and effective electoral administration. Furthermore, the Law Commission is undertaking a review of electoral legislation. It issued a scoping report on 11 December 2012 and expects to issue a consultation on reforming the law in late 2014.

## **13. Contact**

**Peter Richardson** at the Cabinet Office, tel 020 7271 6433: email: [peter.richardson@cabinet-office.gsi.gov.uk](mailto:peter.richardson@cabinet-office.gsi.gov.uk) can answer any queries regarding the instruments.