

EXPLANATORY MEMORANDUM TO
THE ASSISTANCE WITH VOTING FOR PERSONS WITH DISABILITIES
(AMENDMENTS) REGULATIONS 2022

2022 No. [XXXX]

1. Introduction

1.1 This explanatory memorandum has been prepared by the Department for Levelling Up, Housing and Communities and is laid before Parliament by Command of His Majesty.

2. Purpose of the instrument

2.1 This instrument amends the rules relating to support for disabled voters for various polls to reflect changes made to the UK Parliamentary elections rules by the Elections Act 2022 ('the Act'), and amends Regulations relating to Parliamentary elections so far as provision of equipment for disabled voters is concerned.

2.2 The instrument removes from the rules applicable to numerous forms of election or referendum the requirement to provide a specific device to assist blind or partially sighted people to vote in polling stations (commonly known as the Tactile Voting Device (TVD)) at those polls and removes regulations prescribing such a device for UK Parliamentary elections. It replaces it with a broader requirement to provide polling stations with equipment to support voters with a wide range of disabilities, reflecting changes made for UK Parliamentary elections by the Act. It also requires that Returning Officers or Counting Officers pay regard to guidance produced by the Electoral Commission, as required by the Act, to support them in carrying out this new duty.

2.3 Finally, the instrument alters for the same referendums and elections the criteria for who can act as a companion to a disabled voter so that anyone over the age of 18 can act in this capacity, rather than only someone who is a close family member to the voter or a registered elector themselves.

3. Matters of special interest to Parliament

3.1 None.

4. Extent and Territorial Application

4.1 The territorial extent of this instrument is England and Wales only for regulations 3, 5, 6, and 8 to 11, and 13 and 14, Scotland only for regulations 2 and 4, and Northern Ireland only for regulation 7. Regulation 12 extends to the whole of the UK.

4.2 The territorial application of this instrument is England only for regulations 6, 8, 9, 11, and 13, England and Wales for regulations 3, 5, 10, Scotland only for regulations 2 and 4, Northern Ireland only for regulation 7, and Wales only for regulation 14. Regulation 12 applies to the whole of the UK.

5. European Convention on Human Rights

5.1 Andrew Stephenson, Parliamentary Under Secretary of State, has made the following statement regarding Human Rights:

“In my view the provisions of the Assistance with Voting for Persons with Disabilities (Amendments) Regulations 2022 are compatible with the Convention rights.”

6. Legislative Context

- 6.1 Section 9 of the Elections Act 2022 amends the Representation of the People Act 1983 to replace the requirement in the rules for Parliamentary elections to provide a specific device to assist blind and partially sighted people to vote, with a broader requirement to provide each polling station with such equipment as is reasonable to enable, or make it easier, for disabled people to vote at UK Parliamentary elections. It places a requirement on the Electoral Commission to provide guidance to assist Returning Officers and Counting Officers in carrying out this duty and a requirement on Returning Officers and Counting Officers to pay regard to that guidance. The Act also changes the criteria for who can assist a disabled voter in the polling station.
- 6.2 This instrument is made in consequence of section 9 of the Act and serves a number of purposes:
- 6.3 It removes the description of the device - no longer required by primary legislation - from relevant secondary legislation in relation to both Parliamentary elections and those other forms of elections and referendums.
- 6.4 It removes the equivalent requirement to provide a device for use in numerous other forms of election and referendums
- 6.5 It applies the new requirement to provide assistive equipment, as provided for Parliamentary elections by the Act to other polls for which the necessary rules are included in secondary legislation; and
- 6.6 It requires that Returning Officers or Counting Officers, in other forms of election and referendum, pay regard, as appropriate, to central guidance produced for UK Parliamentary elections when applying the duty to other polls.
- 6.7 Finally, it replicates the change in companion requirements across other polls.

7. Policy background

What is being done and why?

- 7.1 Across 2017 and 2018 the Government carried out a call for evidence on access to elections for disabled voters which resulted in a series of recommended actions. The responses to the call for evidence made clear that the existing provision for blind and partially sighted voters at polling stations was not fit for purpose, and the requirement to provide a specific prescribed device, commonly known as the tactile voting device (TVD), stifled innovation and improvement in the support provided to disabled voters. The call for evidence also flagged that the current requirement that a person acting as a companion to a disabled voter in a polling station be either a registered elector or a close family member was overly restrictive.
- 7.2 Section 9 of the Elections Act 2022 addresses this for the purposes of Parliamentary elections by replacing the requirement in the Parliamentary elections rules to provide the TVD with a broader requirement for Returning Officers to provide each polling station with such equipment as is reasonable to enable, or make it easier, for voters with disabilities to vote.

- 7.3 Section 9 also requires that the Electoral Commission produces guidance to assist Returning Officers to carry out this new duty, that Returning Officers pay regard to this guidance and that the Electoral Commission reports on steps taken by Returning Officers to assist disabled voters at the polling station. The changes made by section 9 will improve the way that assistive equipment is provided to disabled voters in polling stations, allowing for greater flexibility to meet a wider range of needs, and ensuring greater scrutiny of support provided to disabled voters.
- 7.4 Section 9 of the Act also removes the requirement that the companion of a disabled voter be close family member or a registered elector, instead requiring that they be aged 18 or over. This will make it easier for disabled voters to get assistance where needed by increasing the pool of people who can help them cast their vote in the polling station.
- 7.5 This instrument delivers this policy change in two ways. Firstly, in relation to Parliamentary elections, it removes the description of the TVD from relevant secondary legislation, as this will no longer be required following the changes made by section 9 of the Act. Secondly it replicates the changes being made by the Act to other types of polls, where the relevant rules, including description of the particular device and the criteria for who can act in the role of companion to a disabled voter, are included in secondary legislation.

8. European Union Withdrawal and Future Relationship

- 8.1 This instrument does not relate to withdrawal from the European Union / trigger the statement requirements under the European Union (Withdrawal) Act

9. Consolidation

- 9.1 This instrument does not consolidate existing legislation

10. Consultation outcome

- 10.1 The policy stems from consultation through a call for evidence on access to elections which received 256 responses including from individuals, organisations, charities, NHS Foundation Trusts, sector representative bodies and local authority election teams.
- 10.2 The Government has consulted with Scottish and Welsh Ministers, as required by section 15(5D) and 15(5C) of the Representation of the People Act 1985, in relation to changes being made to the form to be completed by the companion of a disabled elector at relevant combined polls.
- 10.3 The Electoral Commission (EC) has been consulted in accordance with section 7(1), (2)(e) and (hc) of the Political Parties, Elections and Referendums Act 2000 (“the 2000 Act”). They have confirmed that they are content that the instrument effectively amends secondary legislation to ensure that the changes made by section 9 of the act apply across all relevant polls.
- 10.4 The changes have already been made for UK Parliamentary elections through the Elections Act 2022. As this instrument amends various provisions in secondary legislation in consequence of, or to make similar provision to the Act, further consultation with representative groups is not considered necessary at this time.

11. Guidance

- 11.1 The Government is not providing publicly available guidance on the changes being made by the instrument. Section 9 of the Elections Act requires that the Electoral Commission produce guidance to support Returning Officers to carry out the new policy. This instrument requires that Returning Officers pay regard to that guidance where it is applicable to different polls.

12. Impact

- 12.1 There is no, or no significant, impact on business, charities or voluntary bodies.
- 12.2 There is no, or no significant, impact on the public sector. Where impacts were identified, this was outlined in the Impact Assessment which accompanied the primary legislation.
- 12.3 A full Impact Assessment has not been prepared for this instrument because it makes changes in consequence of, or similar to, changes made by section 9 of the Elections Act 2022. An impact assessment has been produced in relation to the Elections Act 2022.

13. Regulating small business

- 13.1 The legislation does not apply to activities that are undertaken by small businesses.

14. Monitoring & review

- 14.1 There are no plans to monitor or review the instrument in isolation. The instrument makes changes in consequence of, or to make similar provision, the Elections Act 2022.
- 14.2 Section 62 of the Elections Act 2022 commits the Government to review the operation of that Act within five years of the Act being passed. Any findings from the review of the provisions in that Act, which are reflected in this Order, may be considered at that time.
- 14.3 Section 9 of the Elections Act also adds a requirement to the Political Parties, Elections and Referendums Act 2000 that the Electoral Commission report on steps taken by Returning Officers to assist disabled voters are various polls, including Police and Crime Commissioner elections, the rules for which are amended by this instrument

15. Contact

- 15.1 Gregory Brownlow at the Department for Levelling Up, Housing and Communities Telephone: 07935 706 240 or email: Gregory.brownlow@levellingup.gov.uk can be contacted with any queries regarding the instrument.
- 15.2 Becca Crosier, Deputy Director for Elections Division, at the Department for Levelling Up, Housing and Communities can confirm that this Explanatory Memorandum meets the required standard.
- 15.3 Andrew Stephenson, Parliamentary Under Secretary of State at the Department for Levelling Up, Housing and Communities can confirm that this Explanatory Memorandum meets the required standard.