

EXPLANATORY MEMORANDUM TO
THE POLICE AND CRIME COMMISSIONER ELECTIONS (FUNCTIONS OF
RETURNING OFFICERS) REGULATIONS 2012

2012 No. 1918

1. This explanatory memorandum has been prepared by the Home Office and is laid before Parliament by Command of Her Majesty.
2. **Purpose of the instrument**
 - 2.1 The Police and Crime Commissioner Elections (Functions of Returning Officers) Regulations 2012 (the “Regulations”) set out the functions placed on returning officers in exercise of their powers in respect of the police and crime commissioner elections held on 15 November 2012 and every four years thereafter, in accordance with the provisions of the Police Reform and Social Responsibility Act (the “2011 Act”).
3. **Matters of special interest to the Joint Committee on Statutory Instruments**
 - 3.1 None
4. **Legislative Context**
 - 4.1 The Regulations are made in exercise of the powers contained in the 2011 Act to set out the functions of returning officers at elections of police and crime commissioners (“PCCs”) being conducted across England and Wales (excluding Greater London).
 - 4.2 The Regulations set out the general functions and duties of the Police Area Returning Officer (“PARO”), who is the returning officer with overall responsibility for the running of the election within each police force area, in respect of giving notice of the poll, overseeing nominations of candidates, ensuring compliance with the relevant rules on candidate election addresses, calculating the number of votes cast, and the declaration of results.
 - 4.3 The Regulations also set out the general functions and duties of the local returning officer (“LRO”), a returning officer responsible for the running of the election within each local voting area, in respect of the conduct of the poll in that area, the printing of ballot papers, the issue and receipt of postal ballots and proxy voter applications, and the verification and counting of votes cast.
 - 4.4 The Regulations allow a PARO to take control of the printing of ballots and the verification and counting of votes on giving notice to the LRO concerned. The Regulations also provide that a PARO may issue directions to a LRO as

regards certain aspects of the election, including the discharge of LRO functions generally.

- 4.5 The Regulations allow the PARO and LRO to appoint clerks and deputies to assist them in carrying out their duties, and also to correct procedural errors arising in connection with the PCC election. The Regulations also require a PARO and a LRO to take steps to encourage participation in the elections and in doing so they must have regard to any guidance issued by the Electoral Commission.

5. Territorial Extent and Application

- 5.1 This instrument applies to England and Wales.

6. European Convention on Human Rights

- 6.1 The Home Secretary has made the following statement regarding Human Rights:

In my view the provisions of the Police and Crime Commissioner Elections (Functions of Returning Officers) Regulations 2012 are compatible with the Convention rights.

7. Policy background

- 7.1 In June 2010, the Government announced its intention to replace police authorities with directly elected PCCs in England and Wales by 2012.
- 7.2 PCCs are established under the provisions of the 2011 Act which also makes provision governing the conduct of elections for such office.

8. Consultation outcome

- 8.1 A formal consultation on the content of the Regulations ran from 15 February 2012 until 15 March 2012. We consulted with the Electoral Commission and with other interested stakeholders such as the Association of Electoral Administrators.
- 8.2 Few comments were received about the Regulations and the Government have drafted the Regulations bearing those comments in mind.

9. Guidance

- 9.1 It is intended that guidance on the Regulations will be issued by the Electoral Commission.

10. Impact

- 10.1 The Regulations do not apply to businesses, charities or voluntary bodies.

10.2 The impact on the public sector will be the various requirements placed on PAROs and LROs. All these costs will be met by the Home Office.

10.3 An Impact Assessment was prepared for the 2011 Act.

11. Regulating small business

11.1 The legislation does not apply to small business.

12. Monitoring & review

12.1 Under the provisions of the 2011 Act, the Electoral Commission will publish a report on the conduct of the elections held in November 2012.

13. Contact

13.1 Alex Doyle or Neil King at the Home Office (tel: 020 7035 4858 or email: PCCElections@homeoffice.gsi.gov.uk) can answer any queries regarding this instrument.