

EXPLANATORY MEMORANDUM TO
THE EUROPEAN COMMUNITIES (DESIGNATION) ORDER 2013

2013 No. 1445

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

Section 2(2) of the European Communities Act 1972 (“section 2(2)”) includes a limited power for “designated” Ministers and departments to make subordinate legislation. This Order designates—

- the Secretary of State, the Lord President of the Council and the Lord Privy Seal in relation to the European Parliament; and
- the Secretary of State and the Lord President of the Council in relation to local government elections in England, Wales and Scotland and local elections in Northern Ireland.

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

None.

4. Legislative Context

4.1 Section 2(2) confers a power which may be exercised by a designated Minister or government department. A designated Minister or government department can make secondary legislation to implement European Union obligations.

4.2 Since May 2010, the Deputy Prime Minister as the Lord President of the Council has had ministerial responsibility for elections, including elections to the European Parliament. Under the Lord President of the Council Order 2010, the Lord President of the Council may exercise certain functions in relation to elections concurrently with the Secretary of State.

4.3 The Lord President of the Council and the Lord Privy Seal are Ministers of the Crown for the purposes of section 2(2).

Designation in relation to the European Parliament

4.4 This Order designates the Secretary of State, the Lord President of the Council and the Lord Privy Seal in relation to the European Parliament. This Order will allow the Lord

President of the Council to make regulations to implement EU obligations in relation to the European Parliament, including elections to the Parliament. The Lord President of the Council intends to use this designation to allow him to implement obligations arising from Directive 2013/1/EU.

4.5 This Order revokes and replaces two previous designations of the Secretary of State and the Lord Privy Seal in relation to the European Parliament and elections to that Parliament, consolidating the previous designations.

Designation in relation to local elections

4.6 This Order designates the Lord President of the Council and the Secretary of State in relation to local government elections in England, Wales and Scotland and local elections in Northern Ireland.

4.7 This Order revokes and replaces a previous designation in relation to local elections of the Secretary of State only.

5. Territorial Extent and Application

This instrument extends to all of the United Kingdom.

6. European Convention on Human Rights

As this instrument is subject to the negative resolution procedure and does not amend primary legislation, no statement is required.

7. Policy background

European Parliament

7.1 A general election to the European Parliament will take place in 2014. In advance of the European Parliamentary elections, secondary legislation will be made to transpose Directive 2013/1/EU on certain detailed arrangements for the exercise of the right to stand as a candidate in elections to the European Parliament for citizens of the Union residing in a Member State of which they are not nationals.

7.2 Directive 2013/1/EU reduces the burdens on EU citizens wishing to stand as candidates for the European Parliament in Member States other than the Member State of which they are a national. The Directive abolishes the requirement for a candidate to obtain a formal certification from the authorities in their State of nationality that they have not been disqualified from standing as a candidate in European Parliamentary elections in that State. This is replaced by a requirement on a candidate to make a formal declaration that they are eligible to stand, which the Member State of residence is then responsible for verifying with the candidate's State of nationality.

7.3 The Lord President of the Council intends to use this designation to implement Directive 2013/1/EU by making amendments to the European Parliamentary Elections Act 2002¹ and the European Parliamentary Elections Regulations 2004². The Secretary of State for Northern Ireland intends to use this designation to make amendments which apply exclusively to Northern Ireland.

Local government elections

7.4 Directive 94/80/EC³ sets out detailed arrangements for citizens of the Union residing in a Member State of which they are not nationals to exercise the right to vote and to stand as a candidate in municipal elections.

7.5 The Lord President of the Council is designated by this Order in relation to these matters which now fall within his area of ministerial responsibility.

8. Consultation outcome

As this Order is an enabling instrument, which in itself has no impact on business, charities or voluntary bodies, no consultation on the Order was carried out.

9. Guidance

As this Order is an enabling instrument, which in itself has no impact on business, charities or voluntary bodies, no guidance has been prepared in relation to it.

10. Impact

10.1 This Order is an enabling instrument and in itself has no impact on business, charities or voluntary bodies.

10.2 Except to the extent that the Order makes the power in section 2(2) of the European Communities Act 1972 available to the Secretary of State, the Lord President of the Council and the Lord Privy Seal, there is no impact on the public sector.

10.3 An Impact Assessment has not been prepared for this instrument.

11. Regulating small business

The Order does not apply to small business.

¹ 2002 c.24.

² S.I. 2004/293.

³ O.J. L 368 , 31.12.1994, p. 38.

12. Monitoring & review

- 12.1 The designations in this and similar Orders are intended to identify clearly the subject areas in relation to which a Minister or government department is designated.
- 12.2 The designations contained in this Order will be subject to review before any further designations are made in relation to related subject areas.

13. Contact

Les Saunders at the Cabinet Office European and Global Issues Secretariat (Tel: 0207 276 0190 or email: Les.Saunders@cabinet-office.gsi.gov.uk) or can answer any queries regarding the instrument.