

EXPLANATORY MEMORANDUM TO
THE ELECTORAL REGISTRATION AND ADMINISTRATION ACT 2013
(TRANSITIONAL PROVISIONS) ORDER 2015

2015 No. 1520

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

2. Purpose of the instrument

2.1 The Order brings forward the end of the transition to individual electoral registration (IER) following the “second new canvass”. The effect of the Order is that Electoral Registration Officers (EROs) in Great Britain will be required, immediately before publication of a register following the second new canvass, to remove the entry of any person who has neither had his or her entitlement to remain registered confirmed nor made a successful new application for registration in the register.

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

3.1 None.

4. Legislative Context

4.1 Individual Electoral Registration (IER) in Great Britain was introduced by Part 1 of the Electoral Registration and Administration Act 2013 (“the 2013 Act”).

4.2 Schedule 5 to the 2013 Act contains transitional provisions in respect of Part 1. By paragraph 6 of Schedule 5 a registration officer in Great Britain must, immediately before the publication of a register following the “third new canvass”, remove the entry of any person who has neither -

- a. had his or her entitlement to remain registered confirmed, nor
- b. made a successful new application for registration in the register.

4.3 “The third new canvass” is defined in paragraph 30(1) of Schedule 5 to the 2013 Act as “the third canvass under section 9D of the Representation of the People Act 1983” (which was inserted into that Act by section 4 of the 2013 Act).

4.4 Paragraph 28 of Schedule 5 provides that the Minister may by order provide for paragraph 6 to have effect “as if the reference to the third new canvass were a reference to the second new canvass”. Such an order may be made only in the period of three months beginning with 1st June in the year in which the second new canvass begins as prescribed by paragraph 28(2) of Schedule 5 to the 2013 Act.

4.2 The instrument is subject to the negative resolution procedure.

5. Territorial Extent and Application

5.1 This instrument extends to Great Britain.

6. European Convention on Human Rights

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

7. Policy background

Ending the transition to IER in 2015

7.1 The transition to IER commenced in England and Wales on 10th June 2014 and in Scotland on 19th September 2014.

7.2 The Electoral Registration and Administration Act 2013 provides for all electors who were registered before the transition to IER to be 'carried forward' on the electoral register until after the third new canvass (December 2016). The Act provides, however, that an Order may be made in the period between 1st June and 31st August 2015, to remove these electors in December 2015, prior to publication of the register following the "second new canvass".

7.3 The Electoral Commission (EC) has published a report "Assessment of progress with the transition to Individual Electoral Registration : May 2015 electoral registers in Great Britain" (June 2015) in which the Commission recommended that, taking into account the data and evidence available to the Commission and the significant polls scheduled for May 2016, that Ministers should not make an order to bring forward the end of the transition to IER and that "the end date for the transition should remain, as currently provided for in law, December 2016". In order to ensure that the assessment was as up-to-date as possible the EC collected local authority level data from EROs immediately after the last date for registering to vote ahead of the General Election in May 2015, supported in this by the Cabinet Office who worked with electoral management software suppliers to ensure that the necessary data was available.

7.4 Government has considered this matter carefully and has concluded that, while recognising the EC's concerns regarding completeness of the register, the approach of ending the transition in December 2016 would mean that any remaining carry forward electors who have not either had their entries on the registers confirmed through data matching, nor made a successful new application under IER in spite of being contacted at least 9 times would, if they remain on the registers until the end of transition, represent a serious risk to the accuracy of the 1 December 2015 register.

7.5 These electors have had multiple opportunities to register under the new system including written invitations to register in 2014 and 2015 and visits in person to encourage them to apply. Government considers that retaining this group on the register poses a risk to the integrity of elections, by retaining entries which are more likely to be inaccurate. In particular, Government considers that on balance, enabling the transition to extend to December 2016 would have a significant impact on the 1 December 2015 register which will be used for the boundaries review, and that this

impact will extend beyond May 2016 and will only conclude with the end of this session of Parliament.

7.6 Government has therefore decided that the transition to IER will conclude after the “second new canvass” as those non-IER entries remaining on the register at that point will be out of date or inaccurate. Registers used from then onwards will contain the names only of electors who were registered individually, either through having been confirmed on the register at the beginning of the transition to IER in 2014, or through having made a successful application under IER subsequently.

7.7 The Order therefore provides that paragraph 6 of Schedule 5 to the Electoral Registration and Administration Act 2013 should have effect as if the reference there to the third new canvass were a reference to the second new canvass.

8. Consultation outcome

8.1 There is no statutory requirement to consult the EC or the Information Commissioner’s Office (ICO) on this instrument. However CO will keep the EC, ICO and other stakeholders, including the Association of Electoral Administrators, informed of developments. As set out in paragraph 7.3 above the EC has reported on its assessment of the readiness to end the transition therefore close working with the EC has taken place.

8.2 The EC report has been carefully considered by Ministers however as set out in section 7 above, the Government has decided to end the transition in December 2015, conscious of the impact that the accuracy of the 1 December 2015 register will have on the boundaries review.

9. Guidance

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

10. Impact

10.1 An overall Privacy Impact Assessment for individual electoral registration is at <https://www.gov.uk/government/publications/individual-electoral-registration-impact-assessment>.

10.2 A full regulatory impact assessment has not been prepared for this instrument because no impact on the private or voluntary sectors is foreseen.

11. Regulating small business

11.1 The legislation does not apply to small business.

12. Monitoring & review

12.1 The EC and the CO have monitored the completeness and accuracy of the electoral register throughout the transition and will continue this after the transition to IER concludes.

13. Contact

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Carol.Gokce@cabinetoffice.gov.uk can answer any queries regarding the instrument.