

EXPLANATORY MEMORANDUM TO
THE EUROPEAN COMMUNITIES (DESIGNATION) (NO. 2) ORDER 2016
2016 No. 1112

1. Introduction

- 1.1 This explanatory memorandum has been prepared by the Department for Exiting the European Union and is laid before Parliament by Command of Her Majesty.

2. Purpose of the instrument

- 2.1 Section 2(2) of the European Communities Act 1972 (“ECA 1972”) includes a power for “designated” Ministers and departments to make subordinate legislation. The instrument designates the Secretary of State, the Minister for the Cabinet Office and the Lord Privy Seal in relation to the European Parliament. The instrument also designates the Secretary of State and the Minister for the Cabinet Office in relation to local government elections in England, Wales and Scotland and local elections in Northern Ireland.
- 2.2 The instrument also revokes Articles in earlier designation orders that designated the Secretary of State, the Chancellor of the Duchy of Lancaster and the Lord Privy Seal in relation to the European Parliament and the Secretary of State and the Chancellor of the Duchy of Lancaster in relation to local elections.

3. Matters of special interest to Parliament

Matters of special interest to the Joint Committee on Statutory Instruments

- 3.1 None.

Other matters of interest to the House of Commons

- 3.2 Consideration as to whether there are other matters of interest to the House of Commons does not arise at this stage.

4. Legislative Context

- 4.1 Section 2(2) of the ECA 1972 confers a power that 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, or to deal with matters arising out of or related to those European Union obligations.
- 4.2 The existing European Communities (Designation) Order 2013 (No.1445) (the “2013 Order”), amongst other things, originally made provision for the designation of the Lord President of the Council, together with the Secretary of State and the Lord Privy Seal, in relation to the European Parliament and in relation to local elections.
- 4.3 In 2015, following machinery of government changes responsibility for these policy areas was transferred from the Lord President of the Council to the Chancellor of the Duchy of Lancaster. In the European Communities Order 2015 (No.1530) (the “2015 Order”), it was therefore necessary to amend the 2013 Order to give full effect to that change, alongside other changes, made by the Chancellor of the Duchy of Lancaster

Order 2015 (No.1376). The Chancellor of the Duchy of Lancaster was therefore designated in relation to the European Parliament and in relation to local elections.

- 4.4 Following further machinery of government changes responsibility for these policy areas has been transferred from the Chancellor of the Duchy of Lancaster to the Minister for the Cabinet Office in the Transfer of Functions (Elections, Referendums, Third Sector and Information) Order 2016 (No.997). In order to give effect to this, the instrument revokes the Articles in the 2013 and 2015 Orders that designated the Secretary of State, the Chancellor of the Duchy of Lancaster and the Lord Privy Seal in relation to the European Parliament and in relation to local elections. The instrument instead designates the Secretary of State, the Minister for the Cabinet Office and the Lord Privy Seal in relation to the European Parliament and in relation to local elections.

5. Extent and Territorial Application

- 5.1 The extent of this instrument is the United Kingdom.
5.2 The territorial application of this instrument is the United Kingdom.

6. European Convention on Human Rights

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

7. Policy background

What is being done and why

- 7.1 Following machinery of government changes, matters of electoral responsibility previously held by the Lord President of the Council and then the Chancellor of the Duchy of Lancaster have been transferred to the Minister for the Cabinet Office.

8. Consultation outcome

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

9. Guidance

- 9.1 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 An Impact Assessment has not been prepared for this instrument as it is an enabling instrument and in itself has no impact on business, charities or voluntary bodies.

11. Regulating small business

- 11.1 The Order does not apply to activities that are undertaken by small businesses.

12. Monitoring & review

- 12.1 The designation in this and similar orders is intended to identify clearly the subject areas in relation to which the Minister or government department is designated.

12.2 The designation contained in this Order will be subject to review before any further designations are made in relation to related subject areas, with this end in mind.

13. Contact

13.1 Les Saunders at the Department for Exiting the European Union (Telephone: 020 7276 0190 or email: les.saunders@dexeu.gov.uk) can answer any queries regarding the instrument.