EXPLANATORY MEMORANDUM TO

THE ABSENT VOTING (TRANSITIONAL PROVISIONS)(ENGLAND AND WALES) REGULATIONS 2006

2006 No. 2973

1. This explanatory memorandum has been prepared by the Department for Constitutional Affairs and is laid before Parliament by Command of Her Majesty.

2. Description

2.1 The Regulations make changes to provisions concerning postal and proxy voting.

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

3.1 There are no special matters for the Committee to consider.

4. Legislative Background

4.1 Section 14(1) to (3) of the Electoral Administration Act 2006 inserts new provisions into Schedule 4 to the Representation of the People Act 2000 (c.2), which provide that a person who applies for a postal or proxy vote must provide their signature and date of birth. These regulations are being made under the Secretary of State's power conferred by section 14(5) of the Electoral Administration Act 2006 which enables a registration officer to require an existing postal or proxy voter to provide their signature and date of birth, in order to remain entitled to vote by post or proxy.

5. Extent

5.1 These Regulations apply to England and Wales.

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

7.1 The Electoral Administration Bill received Royal Assent on 11 July 2006. The Act aims to make progress on the Government's four core principles found at the core of a healthy democracy:

(i) Improving Access and Engagement
(ii) Improving Confidence
(iii) Extending Openness and Transparency in Party Financing
(iv) Maintaining Professional Delivery of Elections

In line with the above principles, Secondary Legislation to set out further detail governing certain provisions of the Act and bringing certain sections into law will need to be laid.

7.2 Section 14 of the Electoral Administration Act provides for the collection of personal identifiers of postal and proxy voters in order to deter electoral malpractice. The Absent Voting (Transitional Provisional)(England and Wales) Regulations 2006 directly relate to the new arrangements requiring absent voters to provide personal identifiers which may be the subject of a check at the time of an election. Full details of the scheme for the collection and checking of personal identifiers for absent voting are set out under the Representation of the People (England and Wales) (Amendment) (No. 2) Regulations 2006.

7.3 The Government wishes existing absent voters to be subject to the new requirements. The transitional provisions provide for Electoral Registration Officers to require persons who at the time that the regulations come into force have an absent vote to provide a signature and date of birth. Without the personal identifier of all absent voters, the proposed system of checking the authenticity of postal votes would not be workable, as a Returning Officer would be unable to compare the vast majority of identifiers returned on postal voting statements for any given election.

7.4 The regulations set out a scheme whereby Electoral Registration Officers will write to existing postal voters asking for their personal identifiers. The notice will require existing absent voters to provide the information within 42 days. Electoral Registration Officers must provide absent voters with information as to how the required personal identifiers will be used, and explain that failure to provide them will mean the voter will lose his entitlement to be an absent voter though loss of entitlement will not prevent the person from making a fresh application for an absent vote.

7.5 Electoral Registration Officers must also include details of the types of elections that the person will no longer be entitled to vote, if they do not respond to the request and the date (which will not be less than 49 days from the sending of the initial notice) from which he shall cease to be entitled to vote by post or proxy in the event of his failure to provide the personal identifiers.

7.6 The Government recognizes that there may be a risk that some existing postal or proxy voters will not respond and will lose their entitlement to vote by post or proxy. The regulations attempt to minimize this risk by requiring Electoral Registration Officers to send a reminder letter after 21 days of the initial notice. Also, Electoral Registration Officers will not ask postal voters to re-complete an entire new form, but rather just to provide their signature and date of birth, possibly on a form pre-printed with the existing information already held by the Electoral Registration Officer. Failure to respond will mean the Electoral Registration Officer will remove the person from the absent voting records and will notify them of this. The Electoral Registration Officer must explain the effect of removal from the absent voting record and remind the elector that they may make a fresh application.

8. Impact

8.1 A Regulatory Impact Assessment has not been prepared for this instrument as it has no impact on business, charities or voluntary bodies.

9. Contact

9.1 Any queries about the content of this memorandum should be addressed to: Nancy Hey at the Department for Constitutional Affairs, e-mail: nancy.hey@dca.gsi.gov.uk