EXPLANATORY MEMORANDUM TO

THE BOROUGH OF DONCASTER (SCHEME OF ELECTIONS) ORDER 2013

2013 No. 2969

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

2. Purpose of the instrument

2.1 Doncaster Borough Council currently operates a scheme of partial council elections by thirds (i.e. with one third of its councillors being elected each year in three years out of four). The purpose of this instrument is to specify a scheme of elections for the ordinary elections of councillors of the borough from 2015 onwards consisting of whole council elections every four years. The instrument provides for elections in 2015, 2017, and every four years thereafter, so that borough elections take place at the same time as Mayoral elections. The instrument also changes the years of parish elections within the Borough of Doncaster.

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

3.1 None.

4. Legislative Context

4.1 Section 85 of the Local Government Act 2000 ("the 2000 Act") prescribes three options for the scheme for the ordinary elections of councillors of a principal council. For all three options the term of office of councillors is four years. The essential characteristics of the three schemes can be summarised as:

(a) a scheme under which elections are held in a given year and every fourth year afterwards, and all councillors are elected and retire together ("whole council elections"),

(b) a scheme under which elections are held in a given year and every second year after it, and one half of the councillors are elected in each year in which elections are held ("election by halves"), or

(c) a scheme under which elections are held in a given year and every year after it other than every third year after it, and one third of the councillors are elected in each year in which the elections are held ("elections by thirds").

4.2 The Borough of Doncaster currently operates elections by thirds.

4.3 Section 86(A1) of the 2000 Act provides that the Secretary of State may by order make provision to secure that the scheme for the ordinary election of councillors of a principal council in England is a scheme of whole council elections. "Principal council" means a county council, a district council or a London Borough Council (see section 84).

4.4 Section 87 of the 2000 Act provides a power to the Secretary of State to change the years in which the ordinary elections of councillors of any specified local authority are to be held, but which does not change the scheme which prevails for the ordinary elections of those councillors. "Local authority" means a principal council or a parish council (see section 84).

4.5 "Ordinary day of election" means the first Thursday in May (see section 37 of the Representation of the People Act 1983) subject to the power of the Secretary of State by order to specify a different date in certain circumstances. On the fourth day after the ordinary day of elections where there are whole council elections, the whole number of councillors are required to retire together, and newly elected councillors come into office on that same day. (see section 7(9)(b) of the Local Government Act 1972).

4.6 Sections 86(7) and 87(3) of the 2000 Act provide that any order which changes the scheme or year of ordinary elections of councillors may also make provision for members to retire at different times than that which they would otherwise have retired.

5. Territorial Extent and Application

5.1 This instrument applies to England.

6. European Convention on Human Rights

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 On 30 June 2010, the Secretary of State intervened at Doncaster Metropolitan Borough Council. Three intervention commissioners were appointed following a highly critical Audit Commission Corporate Governance Inspection, with a remit to oversee improvements in the council's corporate governance, as well as some backstop powers to take decisions should any member bodies in the council be unwilling to act on the advice of Doncaster's statutory officers. In their role they have met regularly with a wide range of internal and external partners, attended and observed a number of council, committee and partnership meetings and reviewed and commented on council improvement plans, policies and decision-making procedures. In

particular they meet regularly with elected members including the Mayor, cabinet, leadership of the main opposition party and other leading members.

7.2 For much of the more than 10 year period when Doncaster has had an elected mayor, the council has struggled to adapt to working as a Mayoral authority. There have been tensions between the Mayor and wider body of councillors throughout much of this period, regardless of the individual in post as Mayor. The referendum in May 2012 seeking the views of local people on whether to continue with an elected Mayor confirmed this system in place and so the rest of the council needs to adapt once and for all to the fact that Doncaster has a system of Mayoral governance.

7.3 The Commissioners have proposed that the Council should move to whole council elections. The main reason for the move to whole-council elections, held (ultimately) concurrently with the Mayoral election, is to bring the benefits of stability of political leadership so that there can be a focus on a long-term vision. This has been undermined in Doncaster in the past by annual elections for councillors which tended to create an environment of continuous electioneering and encourages a short-termist approach, rather than policies focussed on overall strategic interests of the Borough. In short the proposed change to whole council elections will remove the possibility of annual changes in representation which materially contribute to the instability and failure to address difficult questions which has been a major problem in Doncaster. For these same reasons – creating the most stable environment possible – it is appropriate for the council elections and the Mayoral elections be held on the same day.

7.4 On 17 July 2013 the Minister for Local Government, Brandon Lewis, following the recommendation of the Intervention Commissioners, announced his intention to bring forward an Order providing for Doncaster to move to whole council elections from 2015, providing a much-needed fresh start in the Borough.

7.5 The Local Government Boundary Commission for England is also currently undertaking an electoral review of Doncaster to consider the size of the Council and the warding arrangements for the Borough. The Department understands that the Local Government Boundary Commission aims to put in place revised electoral arrangements at the whole council election in 2015.

7.6 There are a number of parishes in Doncaster. There are parish elections due in 2015. It makes sense and is more cost efficient for those parishes to be on the same cycle as the borough council elections. To keep disruption to a minimum it was felt to be preferable for those parish councillors to be elected be for a term of 6 years so that the cycles coincide from 2021 onwards.

- Consolidation

7.7 No consolidation is necessary.

8. Consultation outcome

8.1 Moving to whole council elections in general is in line with the policy announced in the Government response to the Heseltine report (which recommended that all local authorities should hold whole council elections) which stated that, "whilst leaving this for local choice, the Government welcomes the adoption anywhere of four-yearly whole council elections". Given that Doncaster is in Intervention it is right that in this particular case this encouragement becomes a specific action by Government since, through the Commissioners, it has specific responsibility for what happens in Doncaster.

8.2 Following the announcement on 17 July 2013 the Minister for Local Government, Brandon Lewis, wrote to the Intervention Commissioners, the Mayor of Doncaster and the local MPs. The latter have agreed following discussion with Doncaster's Mayor "to accept all out elections every four years …to coincide with future Mayoral elections".

9. Guidance

9.1 The Department does not intend to issue any guidance alongside this instrument. However, the Department will continue its close dialogue and liaison with the Council.

10. Impact

10.1 This instrument has no impact on the public sector, business, charities or voluntary bodies.

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

11. Regulating small business

11.1 The legislation does not apply to small business.

12. Monitoring & review

12.1 The Department will continue to maintain a close dialogue and liaison with the Council.

13. Contact

Maggie Crosby at the Department for Communities and Local Government Tel: 0303 444 2573 or email: maggie.crosby @communities.gsi.gov.uk can answer any queries regarding the instrument.