EXPLANATORY MEMORANDUM TO

THE DISTRICTS OF AYLESBURY VALE, CHILTERN, SOUTH BUCKS AND WYCOMBE (CHANGES TO YEARS OF ELECTIONS) ORDER 2018

2018 No. 1355

1. Introduction

1.1 This explanatory memorandum has been prepared by the Ministry of Housing, Communities and Local Government and is laid before Parliament by Command of Her Majesty.

2. Purpose of the instrument

2.1 This instrument changes to 2020 the year of the scheduled 2019 elections of district and parish councillors in the districts of Aylesbury Vale, Chiltern, South Bucks and Wycombe.

3. Matters of special interest to Parliament

Matters of special interest to the Joint Committee on Statutory Instruments

3.1 None.

Matters relevant to Standing Orders Nos. 83P and 83T of the Standing Orders of the House of Commons relating to Public Business (English Votes for English Laws)

3.2 As the instrument is subject to the negative resolution procedure there are no matters relevant to Standing Orders Nos. 83P and 83T of the Standing Orders of the House of Commons relating to Public Business at this stage.

4. Extent and Territorial Application

4.1 The territorial extent of this instrument is England and Wales.

4.2 The territorial application of this instrument is England.

5. European Convention on Human Rights

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

6. Legislative Context

6.1 Part 4 of the Local Government Act 2000 concerns elections of councillors to local authorities in England and Wales. Section 85 provides for three options for schemes of ordinary elections of councillors. The options are: (i) elections of all councillors in a given year and every fourth year thereafter ("whole council elections"); (ii) elections in a given year and every second year thereafter of half of the councillors ("elections by halves"); and (iii) elections in a given year and every year thereafter (except every fourth year) of one third of the councillors ("elections by thirds"). Section 87 confers a power on the Secretary of State to change by order the years in which the ordinary elections of councillors of a specified local authority are to be held, but which does not change the scheme of elections. An order may include provision to secure the

retirement of councillors at different times from those at which they would otherwise have retired but may not change the scheme of elections of the authority.

6.2 Part 1 of the Local Government and Public Involvement in Health Act 2007 ("the 2007 Act") concerns structural and boundary change of local government areas in England. Chapter 1 concerns structural change from two tiers of local government in an area to a single tier (from a county council and district councils for an area to a single unitary authority – commonly known as "unitarisation"). Section 7 confers a power on the Secretary of State to implement a proposal for unitarisation of an area which has been made by one or more of the principal councils in the area. An order under section 7 is subject to the affirmative resolution procedure in both Houses of Parliament. Such a proposal has been made by Buckinghamshire County Council.

6.3 Section 15 of the Cities and Local Government Devolution Act 2016 confers a power on the Secretary of State to make regulations (subject to the draft affirmative parliamentary procedure) which may disapply or vary the application of the 2007 Act provisions in relation to structural and boundary change. The Secretary of State proposes to make regulations to disapply the requirement in section 2 of the 2007 Act for a proposal to be invited by the Secretary of State, and remove the requirement for the Secretary of State to consult, reflecting the initiative of Buckinghamshire County Council to make a proposal, the consultation they have undertaken, and the period for representations following the Secretary of State's "minded to" announcement.

7. Policy background

What is being done and why?

7.1 The Government made a manifesto commitment to support those authorities that wish to combine to serve their communities better, and the Ministry of Housing, Communities and Local Government is committed to considering locally led proposals for unitarisation and mergers between councils where a proposal is made.

7.2 The Secretary of State has considered the proposal for local government restructuring submitted by Buckinghamshire County Council in September 2016 and has taken a decision to implement the proposal, subject to parliamentary approval. This decision was announced via a Written Ministerial Statement to Parliament on 1 November 2018.

7.3 The Buckinghamshire County Council proposal is for the existing local government areas of the districts in the county to be abolished and for the county council and all the district councils for those areas to be wound up and dissolved. A new unitary council is to be established for the area.

7.4 The Buckinghamshire (Structural Changes) Order 2019, and the Buckinghamshire (Structural Changes) (Modification of the Local Government and Public Involvement in Heath Act 2007) Regulations 2019 ("the structural change instruments") are to be laid in draft before both Houses of Parliament in early 2019. This Order is being made in advance to ensure that it is in force before electoral administrators would normally commence preparation for the May elections.

7.5 If the structural change instruments are approved by Parliament and made, the instruments will provide for the creation of a single tier of local government for Buckinghamshire with effect from 1 April 2020. The existing councils in Buckinghamshire will be abolished (Buckinghamshire County Council, Aylesbury

Vale District Council, Chiltern District Council, South Bucks District Council and Wycombe District Council), and one unitary council established on the same date, covering the full area of Buckinghamshire covered by those councils.

7.6 The district councils operate a system of 'all out' elections every four years and currently have scheduled elections of councillors to take place on Thursday 2 May 2019 (the ordinary day of elections in 2019). As these councils are to be abolished on 1 April 2020 if the structural change instruments are approved by Parliament and made, the scheduled 2019 elections would mean councillors are elected for only one year. Provisions changing the date of (or cancelling) the election cannot be made in the structural change instruments, as these could not be made and come into force before administrative preparation for the 2 May 2019 elections would need to begin.

7.7 In his Written Ministerial Statement of 1 November, the Secretary of State said he intended "…to explore with the district councils whether they would like me to make and lay before Parliament an order to delay for one year the May 2019 local elections in Aylesbury Vale, Chiltern, South Bucks and Wycombe, so as to avoid councillors being elected for only one year if Parliament approves the legislation establishing the new council." On 14 November 2018 the leaders of Aylesbury Vale, Chiltern, South Bucks, and Wycombe district councils met Rishi Sunak MP, Minister for Local Government and indicated that they might ask for the district council elections scheduled for May 2019 be postponed. On 30 November 2018, chief executives and returning officers of the four district councils wrote to the Ministry of Housing, Communities and Local Government formally requesting postponement of the scheduled district council elections by a year, to avoid the unnecessary costs, and potential for confusion on the part of electors, of electing councillors for only one year. Having canvassed town and parish council opinion and received positive reactions, the chief executives additionally requested on the grounds of practicality that the town and parish council elections should also be deferred, so that elections continue to be held concurrently.

7.8 In deciding to make this postponement, the Government has had regard both to the importance of local elections as the foundation of our local democracy and ensuring the accountability of councils. District council elections in 2019 in Buckinghamshire risk confusing voters and would involve significant costs that would be hard to justify.

7.9 This Order provides that the elections of all councillors that would have taken place on 2 May 2019 will instead take place on the ordinary day of elections in 2020 (7 May 2020). Should the structural change instruments not be approved by Parliament and the proposal is not implemented, the election of councillors in the districts of Aylesbury Vale, Chiltern, South Bucks and Wycombe (including the election of parish councillors within those districts) will still take place on 7 May 2020. If those instruments are approved and the proposal implemented, as is intended by the Government, Aylesbury Vale, Chiltern, South Bucks and Wycombe district councils will be abolished before that day and consequently no district council elections will take place; the postponed parish and town council elections will take place on 7 May 2020, the intended date for elections to the new unitary council.

7.10 The scheme of elections in these district councils continues to be elections of all councillors every four years.

8. European Union (Withdrawal) Act/Withdrawal of the United Kingdom from the European Union

8.1 This instrument does not relate to withdrawal from the European Union.

9. Consolidation

9.1 None.

10. Consultation outcome

10.1 There is no statutory requirement for consultation and no consultation has been carried out on this Order. However, this Order is being made at the request of the district councils in Buckinghamshire, with the support of parish and town councils, who requested the postponement of district and parish and town council elections following the Secretary of State's decision to implement the proposal to reorganise local government in Buckinghamshire, subject to parliamentary approval.

11. Guidance

11.1 No guidance is necessary to accompany the Order; the district councils concerned have been notified of its making and will in turn communicate with the parish and town councils.

12. Impact

12.1 There is no, or no significant, impact on business, charities or voluntary bodies.

12.2 The impact on the public sector is potentially positive as it will save the costs of holding elections for new councillors who would be members of the district council for only one year and means that town and parish council elections continue to be held concurrently.

12.3 An Impact Assessment has not been prepared for this instrument because there is not impact on business, charities or voluntary bodies.

13. Regulating small business

13.1 The legislation does not apply to activities that are undertaken by small businesses.

14. Monitoring & review

14.1 There is no plan to monitor or review this legislation as its purpose is limited to the postponement of district council and parish council elections in a single year.

15. Contact

15.1 Luke Scofield at the Ministry of Housing, Communities and Local Government Telephone: 030 3444 2562 or email: luke.scofield@communities.gov.uk can be contacted with any queries regarding the instrument.

15.2 Paul Rowsell, Deputy Director for Governance Reform and Democracy, at the Ministry of Housing, Communities and Local Government can confirm that this Explanatory Memorandum meets the required standard.

15.3 Rishi Sunak MP, Minister for Local Government at the Ministry of Housing, Communities and Local Government can confirm that this Explanatory Memorandum meets the required standard.