EXPLANATORY MEMORANDUM TO

THE ELECTIONS (FRESH SIGNATURES FOR ABSENT VOTERS) REGULATIONS 2013

2013 No. [XXXX]

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

2. Purpose of the instrument

2.1 This instrument temporarily modifies the Representation of the People (England and Wales) Regulations 2001 (SI 2001/341) ("the 2001 Regulations"), the Representation of the People (Scotland) Regulations 2001 (SI 2001/497) ("the 2001 Scotland Regulations") and the European Parliamentary Elections Regulations 2004 (SI 2004/293) ("the EPE Regulations") to provide that absent voters in England and Wales who would otherwise be requested by the Electoral Registration Officer (ERO) to provide a fresh signature in January 2014, and absent voters in Scotland who would otherwise be requested by the ERO to provide a fresh signature in January 2014 or January 2015, will instead be requested to do so between 1st and 19th August 2013. The instrument is in line with the transitional arrangements for the implementation of individual electoral registration (IER), and moves the timing of the signature refresh for absent voters scheduled for January 2014 in order to avoid it taking place at the same time as the annual household canvass that is to take place from late 2013 to early 2014 ("the 2013/14 household canvass"). The timing of the signature refresh scheduled for January 2015 in Scotland is being moved to 2013 to avoid it taking place at the same time as activity by EROs in Scotland to implement IER.

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

3.1 None.

4. Legislative Context

4.1 The instrument is made under powers at paragraph 7B of Schedule 4 to the Representation of the People Act 2000, section 201(3) of the Representation of the People Act 1983 and section 7(1) of the European Parliamentary Elections Act 2002. The instrument amends provisions which concern the requirement for absent voters to provide a fresh signature at five yearly intervals for the purposes of UK parliamentary, local government and European Parliamentary elections in England, Wales and Scotland.

5. Territorial Extent and Application

5.1 This instrument applies to absent voters in England, Wales, Scotland and Gibraltar.

6. European Convention on Human Rights

6.1 The Minister for Political and Constitutional Reform has made the following statement regarding Human Rights:

In my view the provisions of the Elections (Fresh Signatures for Absent Voters) Regulations 2013 are compatible with the Convention rights.

7. Policy background

7.1 The Electoral Administration Act 2006 included provisions to require absent voters to provide personal identifiers (date of birth and signature) when applying for a postal or proxy vote, and to require postal voters to provide these personal identifiers when voting by post at subsequent elections. Returning Officers will carry out checks on the personal identifiers provided at elections by postal voters to ensure they match with those originally provided by the postal voter and if they do not match the postal vote is deemed invalid. Under the 2001 Regulations, the 2001 Scotland Regulations and the EPE Regulations, EROs are required by 31st January every year to write to absent voters whose signature is more than five years old to request a fresh signature to ensure that up to date signatures for absent voters are kept by EROs.

7.2 The Government considered whether in the transition to IER the signature refreshes for absent voters scheduled for January 2014 and January 2015 might be moved to take place at the same time as registration activity under the IER system to avoid absent voters being written to twice (i.e. once about the signature refresh and once about IER) within a relatively short space of time during the transition to IER. Cabinet Office discussed the matter with electoral stakeholders and the concern was expressed that combining an absent vote signature refresh with IER canvass activity would raise a real potential for confusing electors who, for example, could receive from their ERO a letter that confirms their registration and explains that no action is needed to remain registered and retain their absent vote but at the same time be asked to provide a fresh signature for absent voting purposes, where failure to respond means the loss of the absent vote.

7.3 Further, the Electoral Registration (Postponement of 2013 Annual Canvass) Order 2013 (SI 2013/794) provides that the 2013 annual household canvass period, which would otherwise have taken place between July and December 2013, will run from 1st October 2013 and result in a revised register published by 17th February 2014 in England, and by 10th March 2014 in Scotland and Wales. Concerns were also expressed by stakeholders about holding a signature refresh at the same time as the 2013/14 household canvass.

7.4 The Government has listened to the views expressed and agrees that the interests of voters would be better served by moving the signature refresh scheduled for January 2014 in Great Britain to take place before the 2013/14 household canvass.

7.5 Following confirmation that the referendum in Scotland will be held on 18th September 2014, the Government intends that the transition to IER in Scotland will run from on or around 1st October 2014 and finish in 2015. After discussions with the Scottish Assessors Association, the Government proposes

that the signature refresh scheduled for January 2015 in Scotland should also be moved to avoid the possibility of it occurring at the same time as IER activity by EROs in January 2015. The signature refresh in January 2015 in England and Wales would be left unchanged as this issue only arises for Scotland.

7.6 The Government therefore proposes to also amend the 2001 Scotland Regulations in respect of the January 2015 signature refresh in Scotland. The Scottish Assessors Association has informed us that there are no absent voters for European elections only in Scotland who will be due a signature refresh in 2015 and it is therefore unnecessary to amend the EPE Regulations in relation to the signature refresh due in Scotland in 2015, as EROs will be able to rely on the signatures collected under the 2001 Scotland Regulations for electors with an absent vote for European elections.

7.7 The instrument gives EROs the flexibility to write out to absent voters in the period 1st to 19th August 2013 which will ensure that EROs request fresh signatures from absent voters before 1st October 2013, which is the earliest date that EROs can start the 2013/14 household canvass. The Government's approach will help to avoid any potential voter confusion in the transition to IER, and that signatures are updated for the absent voters concerned ahead of the polls in 2014 and 2015 across Great Britain.

8. Consultation outcome

8.1 The proposals set out in the instrument were developed taking into account the views of the Electoral Commission, the Association of Electoral Administrators, the Scottish Assessors Association, and electoral administrators. In light of views received from the Scottish Assessors Association, the Government decided to provide that the signature refresh due in Scotland in January 2015 should also be moved to take place before the 2013/14 household canvass (as well as the signature refresh in Great Britain in 2014) to avoid the possibility of it taking place at the same time as IER activity in Scotland.

8.2 The Electoral Commission has been consulted in preparing this instrument in accordance with section 7(1) and (2)(a) and (e) of the Political Parties, Elections and Referendums Act 2000. The Electoral Commission has indicated that it is content with the changes being made by the instrument.

9. Guidance

9.1 The Electoral Commission is responsible for issuing guidance to EROs and electoral administrators in the conduct of their duties, which will cover absent voting procedures. We therefore expect that the Electoral Commission will include information about these changes, and how they impact upon electoral law and the administration of signature refreshes in guidance to these persons. Cabinet Office officials will continue to ensure that the Electoral Commission and other key electoral stakeholders are aware of the changes being made by this instrument.

10. Impact

10.1 It is an existing function of EROs to undertake absent voter signature refreshes each year, and moving the timing of the refresh scheduled for January 2014 in Great Britain, and the January 2015 refresh in Scotland, to August 2013 will

have minimal impact on expenditure. There is no impact on 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 This order makes a one-off change to the timing of the absent voter signature refresh in Great Britain in 2014, and that in Scotland in 2015. No monitoring or review is deemed to be necessary.

13. Contact

Peter Richardson at the Cabinet Office, tel: 020 7271 6433 or email: Peter.Richardson@cabinet-office.gsi.gov.uk can answer any queries regarding the instrument.