EXPLANATORY MEMORANDUM TO

THE NATIONAL ASSEMBLY FOR WALES (REPRESENTATION OF THE PEOPLE) (AMENDMENT) (NO. 2) ORDER 2016

2016 NO. [XXXX]

1. Introduction

1.1 This explanatory memorandum has been prepared by the Wales Office and is laid before Parliament by Command of Her Majesty.

2. Purpose of the instrument

2.1 The National Assembly for Wales (Representation of the People) (Amendment) (No. 2) Order 2016 ("The Amendment No. 2 Order") corrects errors that appear in the Welsh language sections of the forms set out in the draft National Assembly for Wales (Representation of the People) (Amendment) Order 2016, that was laid before Parliament on 17 December 2015 ("the Amendment Order").

3. Matters of special interest to Parliament

Matters of special interest to the Joint Committee on Statutory Instruments

3.1 Errors in the Amendment Order were identified by deputy counsel to the JCSI prior to formal consideration by the Committee. The department was invited to withdraw and re-lay the draft but decided against doing that, and instead has corrected the errors by a combination of correction slip and this instrument. The department is aware of the Committee's second report of this session[1] in which the Committee expressed its view (in relation to the draft Smoke and Carbon Monoxide Alarm (England) Regulations 2015) that the proper course when an instrument contained a defect would be to withdraw and re-lay it, but having considered this carefully, and given the circumstances, the department considered that the most appropriate course in this instance would be for a further amending instrument to be laid, to come into force immediately after the Amendment Order.

Other matters of interest to the House of Commons

3.2 This instrument applies only to England and Wales.

3.3 This instrument applies only to England and Wales as it concerns only matters relating to elections to the National Assembly for Wales. This instrument does not have minor or consequential effects outside England and Wales.

3.4 In the view of the Wales Office, for the purposes of House of Commons Standing Order 83P the subject-matter of this instrument would not be within the devolved legislative competence of the Northern Ireland Assembly as a transferred matter, the Scottish Parliament or the National Assembly for Wales if equivalent in relation to the relevant territory were included in an Act of the relevant devolved legislature.

[1] HL Paper 29 HC 352-ii

4. Legislative Context

4.1 The Amendment No. 2 Order amends and substitutes several forms contained in the National Assembly for Wales (Representation of the People) Order 2007 (S.I. 2007/236) as substituted by the Amendment Order so as to correct errors in the Welsh language sections of certain of the forms that came to light after the Amendment Order was laid before Parliament on 17 December 2015.

4.2 Specifically, an instruction to the returning officer is amended in form CC1 (postal voting statement); the equivalent instructions in forms CC2 and CC3 (postal voting statements) corrected and the heading of form CC3 also corrected; a missing word is inserted in the instructions to the voter on the constituency ballot paper; the directions as to printing both the constituency and the regional ballot paper are amended so as to ensure that the permitted words in Welsh on the ballot paper are consistent with those appearing on the ballot papers; and all four forms of poll card (the elector's, proxy's, postal voter's, and postal proxy's) are substituted to correct errors in the Welsh translations.

4.3 Two other minor errors will be corrected by way of correction slip.

5. Extent and Territorial Application

5.1 This instrument extends throughout the UK.

5.2 The territorial application of this instrument is set out in section 3 under "Other matters of interest to the House of Commons".

6. European Convention on Human Rights

6.1 The Rt Hon Stephen Crabb, the Secretary of State for Wales, has made the following statement regarding Human Rights:

"In my view the provisions of the National Assembly for Wales (Representation of the People) (Amendment) (No. 2) Order 2016 are compatible with the Convention rights."

7. Policy background

What is being done and why

7.1 The Amendment No. 2 Order corrects some errors that appear in the Welsh language sections of the forms that are included in the Amendment Order.

Consolidation

7.2 The Law Commission is currently conducting a review into the desirability and feasibility of consolidating electoral law. In the meantime there are no plans at this time to consolidate amendments that have been made to the National Assembly for Wales (Representation of the People) Order 2007.

8. Consultation outcome

8.1 The Electoral Commission has been consulted on the instrument and is content with the proposed changes.

9. Guidance

9.1 The Electoral Commission issues guidance to electoral administrators relating to the administration and conduct of NAW elections and will update the guidance as necessary to cover the changes set out in this instrument.

10. Impact

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

10.2 There is no impact on the public sector.

10.3 An Impact Assessment has not been prepared for this instrument as no impact on business is foreseen.

11. Regulating small business

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

12. Monitoring & review

12.1 The Electoral Commission will produce reports on the administration and conduct of the NAW elections in May 2016, and the Cabinet Office will consider any findings or recommendations made by the Commission about the provisions introduced by this instrument that will apply at this poll. The Cabinet Office will continue to keep all electoral legislation under review to ensure it continues to support electors' participation in elections and effective electoral administration.

13. Contact

13.1 Peter Richardson at the Cabinet Office, Telephone: 020 7271 6433 or email: peter.richardson@cabinetoffice.gov.uk and Peter Newbitt at the Wales Office, Telephone 029 2092 4205 or email: peter.newbitt@walesoffice.gsi.gov.uk can answer any queries regarding this instrument.