EXPLANATORY MEMORANDUM TO

THE PARLIAMENTARY CONSTITUENCIES AND ASSEMBLY ELECTORAL REGIONS (WALES) (AMENDMENT) ORDER 2011

2011 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 changes the boundaries of certain constituencies and electoral regions of the National Assembly for Wales. It does so by amending the Parliamentary Constituencies and Assembly Electoral Regions (Wales) Order 2006 (S.I. 2006/1041) ("the 2006 Order"), which sets out these constituencies and electoral regions, as well as the parliamentary constituencies for Wales. The Order gives effect to the recommendations contained in four reports by the Boundary Commission for Wales.

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

3.1 None.

4. Legislative Context

4.1 Section 2(1) of the Parliamentary Constituencies Act 1986 ("the 1986 Act") provides for the establishment of four Boundary Commissions to keep under review, and make recommendations for changes to, the boundaries of parliamentary constituencies in each of England, Wales, Scotland and Northern Ireland. Effect is given to their recommendations by Order in Council.

4.2 The current parliamentary constituencies into which Wales is divided and the constituencies and electoral regions of the National Assembly for Wales are set out in the 2006 Order. Section 2 of the Government of Wales Act 2006 previously provided that the Assembly constituencies were the same as the parliamentary constituencies. Also, when the Boundary Commission for Wales proposed to recommend changes to parliamentary constituencies in Wales, Schedule 1 to the Government of Wales Act 2006 required the Boundary Commission to consider whether any alteration should also be made to the National Assembly for Wales electoral regions.

4.3 Under the Parliamentary Voting System and Constituencies Act 2011 ("the 2011 Act"), the effect of which will be to reduce the number of parliamentary constituencies in Wales, the Assembly constituencies will no longer be the same as the parliamentary constituencies. Instead, they will be the current constituencies, subject to any amendments which might be made under recommendations made by the Boundary Commission for Wales which were pending at the date of the coming into force of Part 2 of the 2011 Act.

4.4 The Order implements such recommendations made in four reports submitted by the Boundary Commission for Wales relating to the following constituencies:

- (1) Brecon and Radnorshire and (2) Merthyr Tydfil and Rhymney;
- (1) Ogmore and (2) Pontypridd;
- (1) Cardiff North and (2) Cardiff South and Penarth;
- (1) Cardiff South and Penarth and (2) Vale of Glamorgan.

4.5 The constituency boundaries currently follow those of local government areas and the Boundary Commission's recommendations all reflect changes in the boundaries of local government areas so that the constituency boundaries continue to follow suit. The local government boundary changes are all contained in statutory instruments made by Welsh Ministers.

4.6 Because the electoral regions of the National Assembly for Wales follow the boundaries of Assembly constituencies, those changes to the latter which relate to electoral regions as well are also carried through to the former by the Order. The Boundary Commission's reports also recommend changes to parliamentary constituencies equivalent to those to the Assembly constituencies, but the 2011 Act provides that only pending recommendations relating to Assembly constituencies are to have effect.

5. Territorial Extent and Application

5.1 This instrument extends to Wales only, as it applies to the boundaries of certain constituencies and electoral regions of the National Assembly for Wales.

6. European Convention on Human Rights

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

In my view the provisions of the Parliamentary Constituencies and Assembly Electoral Regions (Wales) (Amendment) Order 2011 are compatible with the Convention rights.

7. Policy background

7.1 Prior to the enactment of the 2011 Act, section 3(3) of the 1986 Act empowered each of the four Boundary Commissions to carry out 'interim' reviews of particular constituencies, in between the general reviews they were required to conduct every 8 to 12 years. This was in order, for example, to take account of changes to local government boundaries that affected parliamentary constituencies. The 2011 Act amends the 1986 Act to provide for more frequent general boundary reviews (they will now take place every five years) which will help to ensure that general reviews are better able to take account of changes in the electorate and local government boundary changes. This makes it less important and less practicable to have interim reviews, and the Act removes the provision for the Boundary Commissions to undertake interim reviews in between general reviews.

7.2 The Boundary Commission for Wales was the only Boundary Commission to be engaged in interim reviews while the 2011 Bill was going through Parliament. The 2011 Act provides that any interim reviews of parliamentary constituencies by the Boundary Commission for Wales which were pending at the date of the coming into force of the provisions on constituencies in Part 2 of the 2011 Act (which happened on 16 February 2011, upon Royal Assent) are to be completed and implemented in accordance with the procedures formerly in place in the 1986 Act for this purpose.

7.3 The Order implements recommendations made in four such reviews submitted by the Boundary Commission for Wales. The Boundary Commission for Wales submitted in October 2010 the 'Report with respect to the areas comprised in the constituencies of Brecon and Radnorshire, and Merthyr Tydfil and Rhymney'. At that time, it had already commenced the three further reviews which the Order implements, and in January 2011 published its provisional recommendations relating to these further reviews. Given this, and that the October 2010 report affected 18 electors only and so had a minimal impact, it seemed sensible to take forward implementation of all four reviews together which would, for example, mean that the final reports and recommendations could be considered by Parliament at the same time. At the end of March 2011, the Boundary Commission for Wales submitted its final reports for the three further reviews affecting the boundaries between the following constituencies: 1) Ogmore and Pontypridd; 2) Cardiff North, and Cardiff South and Penarth; and 3) Cardiff South and Penarth, and Vale of Glamorgan. At that stage, the formal election period for the election for the National Assembly for Wales on 5 May was underway and there was not time for the necessary steps to be taken in order to implement the changes in time for the election on 5 May (and in any event we think that candidates and political parties would not have welcomed changes to boundaries so close to the May elections). Recognising that the 1986 Act requires the reports and Order to be laid before Parliament "as soon as may be" the Order is being brought forward in good time for the next Welsh Assembly elections, currently scheduled for 2016.

8. Consultation outcome

8.1 The Boundary Commission for Wales carried out a public consultation on the proposed changes to be implemented by the Order. The Boundary Commission set out its recommendations in local newspapers, in the English and Welsh languages, circulating in the constituencies affected, inviting representations to be made on the proposed changes. Copies of the recommendations, with illustrative maps, were made available for public inspection at convenient places within the constituencies and on the Boundary Commission's website. No representations were received opposing any of the Commission's recommendations. The Order implements the recommendations without modifications and further consultation by the Government was therefore considered unnecessary.

9. Guidance

9.1 The changes being made by the Order will be applicable for the next elections for the National Assembly for Wales, currently scheduled for 2016. The Electoral Commission is responsible for issuing guidance to electoral administrators, candidates and political parties on matters relating to the conduct of elections and we therefore expect that the Electoral Commission will include

any necessary information about these changes, and how they impact upon electoral law and the administration of elections, in future guidance to these persons and bodies. Cabinet Office officials will ensure that the Electoral Commission and other key electoral stakeholders are aware of the changes being made by the Order.

10. Impact

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

10.2 The impact on the public sector is minimal.

10.3 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 Order implements minor changes involving relatively small numbers of electors to certain constituencies and electoral regions of the National Assembly for Wales (but not parliamentary constituencies). The Electoral Commission produces reports on the administration of elections which will normally include an assessment of changes to electoral legislation, and we would expect that the Electoral Commission will cover the changes made by this instrument in its future election reports, as the Commission considers is 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.