EXPLANATORY MEMORANDUM TO

THE POLICE AND CRIME COMMISSIONER ELECTIONS (WELSH FORMS) ORDER 2021

2021 No. [XXXX]

1. Introduction

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

2. Purpose of the instrument

2.1 The Police and Crime Commissioner Elections (Welsh Forms) Order 2021 prescribes a Welsh, or Welsh and English, version of certain forms, and a Welsh version of certain forms of words, which are specified in English in the Police and Crime Commissioner Elections Order 2012 (S.I. 2012/1917) ("the 2012 Order"). The versions prescribed by this instrument are to be available for use in any Police and Crime Commissioner ("PCC") election that takes place in Wales. This is to ensure consistency with other elections held in Wales, such as UK parliamentary elections, which have their own discrete set of Welsh forms set out in secondary legislation.

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 The territorial application of this instrument is limited to Wales.

3.3 The powers under which this instrument is made cover England and Wales only (see section 156 of the Police Reform and Social Responsibility Act 2011).

4. Extent and Territorial Application

4.1 The territorial extent of this instrument is England and Wales only (as explained in paragraph 3.3).

4.2 The territorial application of this instrument is Wales, as it prescribes a Welsh, or a Welsh and English, version of certain forms, and a Welsh version of certain forms of words, to be available for use during any PCC election taking place in Wales.

4.3 The forms, and forms of words, that this instrument prescribes in Welsh (or in Welsh and English in the case of certain forms), are already specified in English in the 2012 Order.

5. European Convention on Human Rights

5.1 Chloe Smith MP, Minister of State for the Constitution and Devolution, Cabinet Office has made the following statement regarding Human Rights:

"In my view the provisions of the Police and Crime Commissioner Elections (Welsh Forms) Order 2021 are compatible with the Convention rights."

6. Legislative Context

6.1 This instrument is being made to prescribe Welsh (or Welsh and English) versions of certain forms and forms of words for use at PCC elections in Wales.

6.2 The English versions of these forms, and forms of words, can be found in the 2012 Order, as amended by S.I. 2014/921, 2016/300 and 2020/190. The amendments made by the Police and Crime Commissioner Elections (Amendment) Order 2020 (S.I. 2020/190) ("the 2020 Order") are not relevant for the purposes of this instrument, as they amend election forms in relation to a police area where the PCC is also the fire and rescue authority for that area and this does not apply to any such area in Wales. Therefore, the amendments to the English versions of the forms (in the 2012 Order) made by the 2020 Order are not reflected in the forms that are prescribed in Welsh (or in Welsh and English) by this instrument.

6.3 The Welsh version of the ballot paper is prescribed in the Police and Crime Commissioner Elections (Welsh Forms) Order 2012 (S.I. 2012/2768) (there are two prescribed versions of the ballot paper: one for three or more candidates, and one for two candidates only). The nomination of candidates form is prescribed in Welsh in the Police and Crime Commissioner Elections (Amendment) Order 2016 (S.I. 2016/300), which amended the 2012 Order. Prior to this Order, these were the only forms prescribed in both the English and Welsh languages for use at PCC elections in Wales.

7. Policy background

What is being done and why?

7.1 The 2012 Order which sets out the rules for the conduct of PCC elections in England and Wales, makes provision for a range of forms and forms of words to be used in PCC elections in relation to various aspects of the electoral process, including postal voting and voting at polling stations.

7.2 Welsh versions of the ballot paper and nomination of candidates form for PCC elections are prescribed in secondary legislation (as explained in paragraph 6.3). Other forms are not covered. The practice at previous PCC elections has been for other forms to be produced locally in Welsh by Returning Officers using powers in article 85 of the 2012 Order, supported by guidance from the Electoral Commission.

7.3 As a result of discussions with the Electoral Commission, senior Welsh electoral administrators and members of the Welsh Language Advisory Group that advises on elections issues in Wales, we are introducing a set of prescribed forms and forms of words translated into Welsh, in respect of the range of other forms already in use at PCC elections, in addition to the Welsh versions of the ballot paper and nomination form for candidates that are already provided. As explained in paragraph 2.1, this is to ensure consistency with other elections held in Wales, such as UK parliamentary elections, which have their own discrete set of Welsh forms set out in secondary legislation (see the Parliamentary Elections (Welsh Forms) Order 2007 (S.I. 2007/1014)).

7.4 The Welsh forms in this instrument cover various stages in the electoral process and include: poll cards issued to electors; the postal voting statement completed by postal voters; the declaration to be made by the companion of a voter with disabilities; guidance for voters; and forms completed by candidates and their agents. In the instrument, some forms are set out in Welsh only and others are in Welsh and English (i.e. bilingual), and in deciding our approach to this we have been guided by the approach taken for Welsh forms at UK parliamentary elections. The forms that are prescribed in Welsh and English, for example, poll cards and postal voting statements, are to be used in this bilingual form in place of the English only versions. The forms that are prescribed in Welsh only, for example, the candidate's consent to nomination form and candidate's declaration as to election expenses, are to be made available in Welsh where the person completing the form, such as a candidate, prefers to communicate in Welsh rather than English.

7.5 This instrument also provides a Welsh version of the form of words setting out guidance for voters that appears in polling station voting compartments. The effect of the instrument is that the form of words appropriate to the number of candidates standing in a particular election will be displayed in polling compartments in Welsh alongside the corresponding English version. The instrument also prescribes a Welsh version of the questions to be put to voters when issued with a ballot paper in polling stations, for use in respect of voters who prefer to communicate in Welsh rather than English.

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 / trigger the statement requirements under the European Union (Withdrawal) Act 2018.

9. Consolidation

9.1 There are no plans to consolidate legislation prescribing Welsh forms at this time.

10. Consultation outcome

10.1 The Electoral Commission has been consulted on the draft Order, as required by section 7(1) and (2)(hc) of the Political Parties, Elections and Referendums Act 2000 (PPERA). In addition, key stakeholders such as electoral administrators in Wales, the Welsh Language Advisory Group, the Association of Electoral Administrators, the Society of Local Authority Chief Executives and officials in the Welsh Government were briefed on and shown a draft of this instrument.

10.2 The Electoral Commission is content with the forms and forms of words prescribed by, and with the approach taken in, this instrument. There is broad support among other stakeholders for this instrument.

11. Guidance

11.1 The Electoral Commission issues guidance to electoral administrators relating to the administration and conduct of PCC elections in Wales and will update the guidance ahead of the next scheduled PCC elections as necessary to cover the changes set out in the instrument.

12. Impact

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

12.2 There is no, or no significant, impact on the public sector.

12.3 An Impact Assessment has not been prepared for this instrument because there is no impact on business.

13. Regulating small business

13.1 This instrument does not apply to activities that are undertaken by small businesses.

14. Monitoring & review

14.1 The Electoral Commission has a duty under section 6 of PPERA to keep under review general matters that relate to elections, including PCC elections, and are required to submit reports to the Secretary of State from time to time on matters specified in section 6. The Government will consider any recommendations made.

14.2 The Cabinet Office will continue to keep all electoral legislation under consideration in the normal course of business to ensure it continues to support electors' participation in elections and effective electoral administration.

14.3 This instrument does not include a statutory review clause.

15. Contact

15.1 Peter Richardson at the Cabinet Office Telephone: 020 7271 6433 or email: peter.richardson@cabinetoffice.gov.uk can be contacted with any queries regarding the instrument.

15.2 Becca Crosier, Deputy Director for the Elections Division, at the Cabinet Office can confirm that this Explanatory Memorandum meets the required standard.

15.3 Chloe Smith MP, Minister of State for the Constitution and Devolution at the Cabinet Office can confirm that this Explanatory Memorandum meets the required standard.