EXPLANATORY MEMORANDUM TO

THE POLICE AND CRIME PANELS (MODIFICATION OF FUNCTIONS) REGULATIONS 2012

2012 No. [XXXX]

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

2. Purpose of the instrument

2.1 A Police and Crime Panel is to be established in each police area in England and Wales outside London, with the function of scrutinising the decisions and actions of the Police and Crime Commissioner. These Regulations modify the provisions of primary legislation governing the arrangements for the formation and maintenance of these Police and Crime Panels in particular circumstances.

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

3.1 None

4. Legislative Context

4.1 Section 1 of the Police Reform and Social Responsibility Act 2011 ("the 2011 Act") provides for the establishment of a directly elected Police and Crime Commissioner for every police area in England and Wales outside London. The Police and Crime Commissioner is responsible for securing the maintenance of an efficient and effective police force and holding the Chief Constable to account for the exercise of his (the Chief Constable's) functions. Section 28 of the 2011 Act provides for the establishment of a Police and Crime Panel for each police area with a Police and Crime Commissioner. The Police and Crime Panel is responsible for scrutinising the actions and decisions of the Police and Crime Commissioner.

4.2 Schedule 6 to the 2011 Act makes provision in relation to the establishment and maintenance of Police and Crime Panels. In England the local authorities covered by the police force area ("the relevant local authorities") must make arrangements for the establishment and maintenance of the Panel ("panel arrangements"). These panel arrangements must be agreed by all of the relevant local authorities.

4.3 In accordance with these arrangements, each relevant local authority must nominate and appoint at least one of its members to be a member of the Police and Crime Panel. If a relevant local authority fails to exercise its powers to nominate or appoint, the Secretary of State must nominate and appoint the appropriate number of members.

5. Territorial Extent and Application

5.1 This instrument extends to England and Wales.

6. European Convention on Human Rights

The Secretary of State for the Home Department has made the following statement regarding Human Rights:

In my view the provisions of the Police and Crime Panels (Modifications of Functions) Regulations 2012 are compatible with the Convention rights.

7. Policy background

- What is being done and why

7.1 These Regulations modify the functions of relevant local authorities in relation to the making of panel arrangements, in the event that the Secretary of State is required to nominate and appoint members of a Police and Crime Panel following a failure of any relevant local authority to discharge its own duties to nominate and appoint. The modification is that, in this situation, the panel arrangements need not be agreed by any local authority which has failed to nominate or appoint members of the Police and Crime Panel. These Regulations therefore prevent a defaulting local authority from preventing the making of panel arrangements.

- Consolidation

7.2 These Regulations do not amend any existing instrument

8. Consultation outcome

8.1 There has been detailed discussion and consultation with officials in the Department for Communities and Local Government, and with the Local Government Association, in the drawing up of these Regulations, given the interface with local government. Further consultation has taken place with a broader range of partners who are working with the Home Office to develop checks and balances on Police and Crime Commissioners.

9. Guidance

9.1 We will be providing guidance to local authorities, although this will not go beyond explaining the Regulations in plain English.

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 there is no impact on the private or voluntary sectors.

11. Regulating small business

11.1 The legislation does not apply to small business.

12. Monitoring & review

12.1 No formal method of monitoring and review is proposed. It is not anticipated that any local authority will fail to comply with its duties under Schedule 6 to the 2011 Act, so these Regulations will only apply in exceptional circumstances. It is expected that local authorities and Police and Crime Panels will communicate to the Home Office any difficulties with the operation of the Regulations in practice.

13. Contact

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