EXPLANATORY MEMORANDUM TO

THE REPRESENTTION OF THE PEOPLE (ANNUAL CANVASS) (AMENDMENT) REGULATIONS 2019

2019 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 These regulations amend the Representation of the People Act 1983 ("the 1983 Act"), the Representation of the People (England and Wales) Regulations 2001 ("the RPR 2001 E&W") and the Representation of People (Scotland) Regulations 2001 ("the RPR 2001 S"), and make provision for testing the national data match process that forms part of the new annual canvass.

2.2 These amendments relate to the reform of the annual canvass. The changes remove the current requirement to canvass all households the same way by sending up to three full canvass forms with pre-paid pre-addressed envelopes, with the addition of a household visit where the property has not responded. These changes will allow Electoral Registration Officers ("EROs") to better focus their resources on households more likely to have experienced changes in composition, i.e. where additions to or deletions from the register are required. It establishes a mandatory national data matching service (and provides for a one-off test of that service), allowing EROs discretion over the conduct of their annual canvass of the electors on their electoral registers. It sets out new matched and unmatched property routes, one of which EROs must follow based on the results of their data match step, as well as an exemption process for certain properties.

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 includes England, Scotland and Wales.

4. Extent and Territorial Application

4.1 The territorial extent of this instrument is England, Scotland and Wales in respect of the UK Parliamentary register and the local government register in England.

4.2 We anticipate that the Scottish Government and Welsh Government will bring forward their own statutory instruments in respect of the application of these reforms to the local government registers in Scotland and Wales, insofar as they relate to devolved matters.

5. European Convention on Human Rights

5.1 The Minister for the Constitution has made the following statement regarding Human Rights:

"In my view the provisions of the Representation of the People (England and Wales) (Annual Canvass) (Amendment) Regulations 2019 are compatible with the Convention rights."

6. Legislative Context

6.1. These regulations are part of a package of statutory instruments that will ensure the same changes to the Annual Canvass are introduced across Great Britain. Legislative competence in respect of the UK parliamentary register is reserved.

6.2. Legislative competence in respect of the local government register in Scotland was devolved to the Scottish Parliament by the Scotland Act 2016. That Act also transferred to the Scottish Ministers functions exercisable by a Minister of the Crown in respect of the local government register in Scotland, so far as those functions are exercisable within the Scottish Parliament's devolved competence. The relevant provisions were commenced in May 2017. Scottish Ministers are taking forward equivalent changes in respect of the local government register in Scotland, with the intention that the changes come into force at around the same time as this instrument, in advance of the start of the 2020 canvass.

6.1 Legislative competence in respect of the local government register in Wales was devolved to the National Assembly for Wales by the Wales Act 2017. The Welsh Ministers (Transfer of Functions) Order 2018 transferred to Welsh Ministers functions exercisable by a Minister of the Crown in respect of the local government register in Wales, so far as those functions are exercisable within the Assembly's devolved competence. The relevant provisions were commenced in April 2018. The draft Representation of the People (Annual Canvass) (Amendment) Regulations 2019 separately seeks to make specific provision in relation to the role of Electoral Registration Officers in respect of the local government register in Wales. Welsh Ministers are taking forward equivalent changes in respect of the local government register in Wales, with the intention that the changes come into force at around the same time as this instrument, in advance of the start of the 2020 canvass.

6.2 The requirement for an annual canvass to take place is set out in Sections 9A *EROs: duty to take necessary steps* and 9D *Maintenance of registers: duty to conduct canvass in Great Britain* of the 1983 Act.

6.3 Section 9A of the 1983 Act places a duty on EROs to take all the necessary steps to maintain their registers and secure, where reasonably practicable, all persons who are entitled to be registered. They are required to undertake all necessary steps including sending the canvass form and making household visits on one or more occasions.

6.4 Section 9D of the 1983 Act places a duty on EROs to conduct an annual canvass in the area for which they act. The purpose of the canvass is to ascertain the names and addresses of persons entitled to be registered and those who are registered but not entitled to be. The canvass must be conducted according to the relevant regulations and gives the ERO the right to make household visits for the purpose of the canvass.

6.5 The canvass process was previously laid out in regulation 32ZA Annual Canvass and regulation 32ZB Steps to be taken by a registration officer where no information in response to an annual canvass form is received in respect of a particular address of the RPR 2001 E&W and the RPR 2001 S respectively.

6.6 The power to make the changes to the above provisions is found in Section 53 of the 1983 Act - *Power to make regulations as to registration etc* and Schedule 2 to that Act - *Provisions which may be contained in regulations as to registration etc.*, and in Section 7 of the Electoral Registration and Administration Act 2013 ("the ERA 2013") - *Power to amend or abolish the annual canvass.*

6.7 Because of the devolution of powers described in paragraphs 6.1 - 6.3 above these regulations do not amend any provisions in the 1983 Act or the RPR 2001 E&W and the RPR 2001 S so far as those provisions relate to the local government register in Wales or in Scotland. As a result, these regulations make clear on the face of all the amendments which registers they apply to.

6.8 The Regulations don't remove existing regulations 32ZA and 32ZB from either of the 2001 Regulations. Those provisions remain in place, but these Regulations limit their application to the local government register in Wales (in the England and Wales Regulations) and the local government register in Scotland (in the Scotland Regulations). In order to implement the reforms in respect of local elections in Scotland and Wales, the Scottish Government and Welsh Government may subsequently disapply regulations 32ZA and 32ZB in their SIs, and implement the new changes within their legislative competence.

6.9 The new canvass process for the parliamentary register (and in the England and Wales Regulations, the local register in England) is now inserted as new regulations 32ZBA to 32ZBF.

6.10 In summary, the approach to be taken by the Scottish Government and Welsh Government SIs is likely to be to revoke regulations 32ZA and 32ZB and apply the newly inserted provisions to their respective local registers of electors.

7. Policy background

What is being done and why?

7.1 The current canvass gathers information on potential additions to, changes to, and deletions from, the register.[1] Since the introduction of Individual Electoral Registration ("IER") in 2014, EROs must individually invite potential new electors to apply to register to vote, and verify their identity, before they can be added to the register. This process sits separately to the annual canvass but can, and generally does, occur concurrently.

7.2 In its current form, the annual canvass prescribed in legislation focuses on process (e.g. the number of canvass forms to be sent to each household) rather than outcomes (e.g. the accuracy and completeness of the register). It is heavily paper based, inefficient and outdated, leaving little scope for digital innovation.

[1] While under section 9(1) there are two registers, one of parliamentary electors, and one of local government electors, they are "so far as practicable" to be combined under section 9(5). For the sake of brevity, we therefore simply refer to "the register" in this document.

7.3 Pilots of alternative models for conducting the annual canvass were run in 3 local authorities in 2016 and 24 local authorities in 2017.[2] Evaluation of the pilots makes clear that there is merit in enabling EROs to more effectively target their resources towards those properties where the occupiers have changed and the electoral register needs to be updated. A new canvass model has been developed based on the evidence from the pilots, feedback from our consultation and extensive engagement with key stakeholders.

7.4 The purpose of the canvass of households under the revised model will be the same as under the current model, that is to find out -

7.5 a. the names and addresses of persons who are entitled to be registered but who are not already registered; and

7.6 b. those persons who are on the register but who are no longer entitled to be registered at a particular address (normally because they have moved).

7.7

7.8 The intention is that the legislation governing the reformed annual canvass is less rigidly prescriptive and therefore more flexible than is currently the case. The objectives of canvass reform are:

a. to make the process simpler and clearer for citizens;
b. for EROs to have greater discretion to run a tailored canvass which better suits their local area;
c. to reduce the administrative burden on EROs and the financial burden on taxpayers;
d. to safeguard the completeness and accuracy of the registers;
e. to maintain the security and integrity of the registers;
f. to include the capacity for innovation and improvement, with a model that is adaptable to future change.

7.9 Because the annual canvass remains important in maintaining the completeness and accuracy of the register, the new model ensures that every residential property is contacted at least once during the canvass period to ensure there is the opportunity to report changes if required.

7.10 We do not intend to make any changes to the timing of the canvass. We wish it to remain a matter for EROs' discretion when they choose to start their canvass. The requirement to publish the revised register by 1 December each year will remain, as will the ability to defer publication of the revised register until 1 February if they hold an election in their area within the canvass period.

Regulation 1

7.11 This regulation covers the citation, commencement, extent and application of the new legislation and will come into force the day after the day on which the SI is made. Regulations 20 and 21, which provide for a test of the national data matching step, will also come into force on the day after the day on which the SI is made. All other regulations will come into force on 31st December 2019.

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2 https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/719824/Piloting_Alternative_Electoral_Canvassing_Models_-_Full_Report.pdf

Regulations 2 - 5

7.12 These regulations contain amendments to the 1983 Act which are necessary to ensure it provides for the new canvass requirements, for example in section 9D(4) "design a canvass form" will be substituted for "design canvass forms or communications".

Regulations 6 - 11

7.13 Regulations 6 - 11 amend the RPR 2001 E&W in order to bring them in line with the new canvass requirements. Regulation 7 extends the definition of the digital service run by Cabinet Office to include the purpose of data matching, alongside the existing purpose of verifying information.

7.14 Regulation 8 provides for the removal of the requirement, under Regulation 26(3)(eb) of the the RPR 2001 E&W for what is known as the "single occupancy tick box". This was introduced in 2016 as part of a set of cost-reduction measures ahead of wider canvass reform. Where an elector has indicated that they are the sole occupant of the property, and no other available information suggests otherwise, the ERO can choose to exempt the property from the next canvass (or the current canvass, if one is already underway). The original purpose was to reduce the cost of the annual canvass, as it would enable EROs to exclude a proportion of properties from requirements.

7.15 However, in practice many electors were confused by the tick box. We understand that, due to this confusion, there was a high risk of incorrect reporting resulting in many EROs being unwilling to rely on the tickbox information and continuing to send the Household Enquiry Form. Results from our consultation showed that it's removal was supported by over 75% of respondents. It is also inconsistent with the intention that every property will receive a canvass communication under the reformed canvass process. Consequently it is being removed. Therefore Regulation 8 makes provision to remove 26 (3)(eb) in relation to UK parliamentary and local government registers in England by making it exclusively relating to Wales. It will be for the Welsh Ministers to decide whether to replicate this in relation to the local government register in Wales.

7.16 Regulation 11 inserts into the Representation of the People (England and Wales) Regulations 2001, 32ZBA, 32ZBB, 32ZBC, 32ZBD, 32ZBE, 32ZBF and 32ZBG after the existing 32ZB.

32ZBA Annual Canvass

7.17 Paragraph (1) Under the reformed annual canvass, EROs are required first to undertake the data match step by complying with 32ZBB(1).

7.18 Paragraph (2) makes it clear that the default canvass is prescribed in 32ZBD which is the unmatched property route. However, paragraph (3) provides for two other processes, the matched property route and the defined property route as exceptions and they are described in paragraphs (4) and (5).

7.19 Sub-paragraph (4)(a) provides the first exception which is available where the ERO has undertaken the data match step and is satisfied that there are no changes that need to be made to the electoral register, and under sub-paragraph (b) has therefore chosen to follow 32ZBE which is the matched property process. Having followed this process, if they have not received any information to suggest that there might be changes or if they have received the correct information they need to make the

requisite changes, they do not need to continue any further and can close the chasing cycle.

7.20 Paragraph (5) gives the ERO the option of using 32ZBF which is a third process for 32ZBFuse in regards to particular types of property. The characteristics of these property types mean the ERO can more effectively and efficiently obtain information on residents using an alternative approach, where they are able to identify a 'responsible person' to provide the information in respect of all residents.

7.21 Paragraph (6) prevents an ERO from using the matched property route if the ERO has information indicating that only persons under the age of 18 are resident in the property.

7.22 Paragraph (7) defines the information EROs are required to take into account in determining whether to use the matched property route instead of the unmatched property route. These are the data match results and data the ERO holds on pending electors and recent electors. These are detailed fully in 32ZBD.

7.23 Paragraph (8) makes provision for EROs to take into account any other (usually locally-obtained) data which they have access to when informing their choice of process.

32ZBB Annual Canvass Data Matching

7.24 As explained above, the new annual canvass will incorporate a mandatory 'data step' at the outset which will provide information to the ERO on which properties are likely to have changed household composition. This is achieved by matching data on registered electors against national government data and, where relevant, locally held data sources. Where the data the ERO holds on registered electors matches data in another reliable and accurate dataset, the ERO will have confidence that the details they hold on their register remain accurate, thus obviating the need to conduct full canvass process set out in regulation 32ZBD and allowing instead to conduct the simpler process in regulation 32ZBF.

7.25 The data step involves data matching entries on the electoral register with a national data set held at the Department of Work and Pensions data warehouse. This data match against nationally held data sets is detailed in paragraphs (1) to (9) of regulation 32ZBB and described below.

7.26 The ERO is required to send the prescribed information they hold on electors on the UK Parliamentary register and the register of local government electors in England to the Individual Elector Registration digital service ("IER DS") which is a Cabinet Office service. It will be for the Welsh and Scottish Governments to decide whether to require EROs to do the same in relation to the local government register in Wales and Scotland. This information is then sent to DWP Data and Analytics for matching against a routinely extracted data set in its data warehouse. The results are then sent back to the IER DS, which in turn discloses the results to the ERO.

7.27 While the requirement for EROs to disclose information to the digital service in the first place is the responsibility of the devolved administrations in relation to the local government registers in Wales and Scotland, the remaining provisions, which set out the steps required for the data comparison, including the format and the infrastructure

to be used, are reserved.[3] The results of the data match, disclosed to EROs in accordance with paragraph (6) will relate both to the UK Parliamentary register and the local government registers. Where those results relate to the local government registers, any further processing of these results by the Scottish and Welsh EROs is devolved.

7.28 Certain properties and electors are exempt from the data match step. These include in sub-paragraphs (7)(a) and (b) recently successfully determined electors (for a period of up to 90 days after determination), and in paragraph (8) special category electors, such as overseas voters and anonymous registrations. In practice, the ERO will have discretion to set their own time period within which recently successfully determined electors (recent additions to the electoral register) are excluded. They will be able to set the time period from zero up to 90 days.

32ZBC Processing of information in connection with annual canvass data matching

7.29 Paragraph (1) makes clear that the results of the data match may only be used for registration purposes or if requested for legal proceedings and paragraph (2) details a new criminal offence for misuse of data shared under the new data matching step. This offence is very similar to the one already in place in respect of misuse of data transferred during the data verification step for registration (e.g. at paragraph (6) of regulation 29ZB of the RPR 2001).

7.30 Paragraph (3) sets out that the Minister for the Cabinet Office may impose requirements on any ERO or person who discloses information to the Cabinet Office as part of the data match step.[4] These requirements may cover the processing of data, including the transfer, storage and security of that information. Paragraph (4) clarifies that these requirements for the processing of data may be in respect of both the UK parliamentary register and the local government register in England.

7.31 Paragraph (5) sets out that where the Minister for the Cabinet Office imposes requirements on the processing of information for the national data match step, this must have been done before the data match step is due to commence.

32ZBD Annual Canvass for properties where it may be necessary to make any addition to, or deletion from, an electoral register and steps to be taken where no response is received

7.32 The unmatched property route is set out in paragraphs (1) - (9). If a response is received from the property at any point the ERO is able to close the chasing cycle. EROs will have the discretion to contact a property by means of paper communication, telephone call, electronic communication or household visit and this is set out in paragraph (4). Contacts via telephone or electronic means are considered to be with individuals, rather than with the property itself. This is because such contact details relate to the individual, rather than the address, and are portable.

7.33 The minimum requirements for the full canvass are as follows:

- Paragraph (1) provides that the first contact must be with the property itself, either as a household visit or delivered paper communication. This is in order to ensure that all properties receive at least one direct contact.

[3] Under section B1(24) of the reservations listed in Part 2 of Schedule 7A of the Government of Wales Act 2006.

[4] This provision is made in reliance on paragraph 1A(3), Schedule 2 to the 1983 Act.

- Paragraphs (2) and (3) establish that a further two attempts must be made to contact an individual resident at the property if there is no response to the first contact attempt (i.e. the chasing cycle must include a minimum of three contact attempts).
- Paragraph (5) establishes that the ERO will be required to send a prescribed canvass form at least once to the property as one of the three contact attempts.
- Paragraph (6) has the effect of requiring a further contact with the property itself as part of the three stage chasing cycle. If the ERO has not carried out a property-level contact for the second contact attempt they will need to do so for the third contact attempt, via either a household visit or by sending a further paper communication to the address. For the avoidance of doubt and in accordance with paragraph (5), if the ERO has not sent the canvass form for the first or second stage, they will need to send it as the third contact attempt.
- Paragraph (7) introduces a requirement for a 'personal canvass'. If no response has been received from the property, it will be mandatory to attempt to contact a person at the property by either a household visit or to attempt to speak to someone at the property via telephone call. The personal contact requirement can be fulfilled at the first, second or third contact attempt, but if it has not been undertaken by the third contact attempt, it must be undertaken as an additional step.

7.34 Paragraph (8) prescribes that where the ERO attempts to make contact with a person at an address via telephone call, they will need to call all of the individuals aged 18 or over for whom they hold the relevant contact details and whom they believe are resident at the address, provided they are on the electoral register. Once they have received a response from the property they are not obliged to continue calling other individuals at the property. Where they hold an identical phone number for multiple residents, for example a landline, the ERO is not obliged to call the number more than once.

7.35 Paragraph (9) prescribes the content required on the canvass form by saying in sub-paragraph (a) that the ERO must pre-populate the form with information on individuals registered at that address, including full name and nationality and an indication as to whether they are aged 76 or over. Sub-paragraph (9)(b) makes it mandatory for the form to be accompanied by a pre-paid, pre-addressed envelope.

7.36 Paragraph (10) defines the terms "canvass form" and "paper communication". It will be possible to send paper communications to properties using two formats under the unmatched property route. These will be the prescribed "canvass form" or 'canvass communication B'. Both will be designed by the Electoral Commission as detailed in regulation 32ZBG. Any other paper contacts that the ERO chooses to carry out will be discretionary and will not count as one of the three minimum contact attempts.

7.37 Guidance on the various options available to EROs will be provided by the Electoral Commission in their *Guidance for Electoral Administrators*. This will cover the option to use electronic communications such as emails and text messages to try and increase response rates and close the cycle using less expensive and more innovative methods than the canvass form alone.

32ZBE Annual canvass for properties where the registration officer is satisfied that it is not necessary to make any deletion from an electoral register and has no reason to believe that any additions to an electoral register may be required

7.38 Paragraph (1) makes provision for the ERO to use the matched canvass process if, having taken into account the results of the national data match, and any information relating to recent additions to the register and determined electors, they remain satisfied that no deletions are required and have no reason to believe that any additions to the UK Parliamentary register or local government register in England are required for the property.

7.39 Determined electors are those whose application to register to vote has been successfully determined by the ERO. However, they will not be added to the register until the next monthly alteration is published. Since they will not appear on the register at the point of the data match, the EROs will not submit their details for matching.

7.40 Paragraphs (2) - (6) sets out the process for the matched canvass. Paragraph (3) gives the ERO the choice between sending canvass communication A to the property or sending an electronic communication to the property where the ERO holds relevant contact details for at least one registered elector over the age of 18 at the property. Canvass communication A will be designed by the Electoral Commission. Where the ERO chooses to send an electronic communication, they must do so to each registered elector at the property over the age of 18 for whom they hold details.

7.41 Sub-paragraph (4)(a) establishes that an electronic communication, where it is sent, must be responded to by the property to confirm either that the information is complete and accurate, or to provide updates to the register. Sub-paragraph (b) makes provision that, where the information in the electronic communication is not correct, a response from the property is required to provide the name and nationality of all individuals aged 16 and over at the property who are eligible to vote in either parliamentary elections in England and Wales, or local government elections in England and to indicate whether any of the eligible residents are aged 76 or over. Section 3(4) of the Juries Act 1974 requires EROs to make available to the Lord Chancellor, information on all registered electors aged between 18 and 76 for the purpose of summoning jurors and therefore this information must be captured where practicable. This requirement does not apply in Scotland and is therefore not reflected in the parallel amendments to the RPR 2001 S.

7.42 Under paragraph (5), where an ERO has not received the required information in response to an electronic communication within a reasonable time of sending the communication, the ERO must follow up by sending canvass communication A to the address. This ensures that the property receives at least one paper communication, whilst allowing EROs the discretion to reduce the number of paper communications they are required to send by seeking a response through electronic communications.

7.43 Paragraph (6) sets out that canvass communication A must be pre-populated with the full name and nationality of all registered electors and pending electors at the property. If practicable, the ERO should also indicate whether registered or determined electors are aged 76 or over. Special category electors as defined by section 9D(6) of the 1983 Act should not be included in canvass communication A.

7.44 Canvass communication A will not require a response unless there is a change to report to the information printed on the form. It will be clear to the electors how they can respond if they need to.

7.45 Where a change response is received in respect of a property under this route, the ERO should close the canvass chasing cycle and move on to the additions or deletions processes, as appropriate. Paragraph (7) sets out that the ERO must change the method of canvassing a property from the lighter touch to the full canvass if they have reason to believe that a deletion may be necessary, or if they have reason to believe that an addition to the register is necessary but have not received information on the names to be removed from or added to the register. This is intended to cover situations where the ERO has become aware of a probable addition or deletion to the register but has not received sufficient information to allow them to proceed with the normal additions or deletions processes.

32ZBF Annual canvass for certain properties

7.46 Certain types of residential address are less suited to traditional canvassing methods and 32ZBF sets out an exceptions process for properties that meet certain characteristics. Properties eligible for this process will be identified at the start of the canvass process.

7.47 Paragraph (1) makes provision for this separate process – making clear that only where the ERO has been able to identify a responsible person at a property that falls within the scope of properties listed at paragraph (2) are they able to follow it.

7.48 Sub-paragraphs (2)(a) to (e) list specific types of property suitable for this exceptions process. This list is supplemented by sub-paragraph (2)(f)which describes two characteristics at (i) and (ii) that could bring further types of property within the scope of the exceptions process, as long as the further requirement at the end ofsub-paragraph (2)(f) is met. These characteristics are that a property:

- has multiple occupants who do not form a single household and are not related to each other; or
- the ERO has been unable to deliver communications to the address within the last 18 months..

7.49 Properties with these types of characteristics could include army barracks, a hospital or a religious community. The requirement at the end of sub-paragraph (2)(f) is that the ERO must reasonably believe that using this exception process is more likely to enable them to fulfil the purpose of the annual canvass than either of the two other canvass processes

7.50 Paragraph (3) establishes a restriction on the use of this exceptions process for properties falling within sub-paragraph (2)(f) with the effect that an ordinary block of flats, which does not fall under the definition of a house in multiple occupation (an HMO) under section 254 of the Housing Act 2004, would not be eligible for the exceptions process. This is to avoid this exceptions route being used too broadly for properties which should properly be canvassed using either of the two other canvass processes described above.

7.51 Paragraph (5) sets out the information the ERO must request from the responsible person. They are able to obtain this information by any means they feel appropriate, including the methods listed in paragraph (6). The information required is the same information that the canvass form gathers. The ERO is able to gather the information

by any means they feel appropriate, allowing them the discretion to use whichever method they feel is most effective. This is in line with the policy intention of allowing EROs greater discretion over the canvass to enable them to use the best method for their area.

7.52 Paragraph (7) provides that if the ERO is unable to gather the required information using this process within a reasonable time period, they must then revert to the unmatched property route for the relevant property.

7.53 Paragraph (8) defines a responsible person for the purposes of this regulation.

32ZBG Electoral Commission requirements

7.54 The duty created by regulation 32ZA has been expanded to place a duty on the Electoral Commission to design three types of paper canvass communications. In response to feedback from the public consultation, the information required on the form has been simplified and the discretion allowed to the Electoral Commission to design them has been increased. As a result only information directly linked to the canvass is now being prescribed. This will allow for forms that are clearer in purpose and remove some of the confusion citizens currently experience.

7.55 Subparagraph (1)(a) lists the two communications and the form:

(i) canvass communication A. This will be a paper communication for use during the matched canvass. It will only require a response if the recipient has changes to report in respect of the household.

(ii) canvass form (which must be accompanied by a pre-paid, pre-addressed envelope) will be used for the unmatched property route.

(iii) canvass communication B. This will be a paper communication alternative to the canvass form for use during the unmatched property route.

7.56 The Electoral Commission will, as now, make the designs of these forms available to registration officers who will be obliged, as now, to use the standardised versions. As is currently the case with the prescribed canvass form, these prescribed communications will be signed off by the Minister for the Cabinet Office. There is also a requirement for the Minister to consult Welsh Ministers on the forms to be used in Wales.

7.57 Paper canvass communication A is to be used for the matched canvass. Although occupiers will be obliged to let the ERO know if the information presented on the communication is inaccurate or incomplete, there will be no requirement for them to respond to a paper canvass communication where the information is both accurate and complete.

7.58 It is being left open to the Electoral Commission as to whether this communication should take the format of a letter or a form. The policy intention is to allow the Commission some flexibility and to avoid being overly prescriptive. This communication will be pre-populated and, whilst it does not prescribe that this communication should be accompanied by a pre-addressed, pre-paid envelope, there is nothing in the law preventing an ERO from doing if they so wish. The minimum requirements for this communication are set out in paragraph (4). Canvass communication A must include:

- Full name and nationality of registered electors.
- Name and nationality of pending electors (as described in paragraph 7.29).

- A notification that matching data has been processed in accordance with data protection legislation.
- A statement that the occupier or person in charge of the premises is required to notify the ERO if the information provided on canvass communication A is incomplete or inaccurate, and to provide the name and nationality of residents aged over 16 who are eligible to vote in UK Parliamentary elections in England or Wales, or local government elections in England, where they have been excluded.
- Information on how the occupier or person in charge of the premises may respond, if they need to.
- Wording requiring the respondee to make a declaration that any information provided in response is true.

7.59 The canvass form is to be used for the unmatched property route and therefore sent to properties where change is expected. It will therefore be similar to the form currently in use but again we have removed as much of the current prescription as possible. This provides the Electoral Commission with the maximum flexibility to design a form which elicits responses and picks up as much change information as possible. The minimum requirements for the form are set out in sub-paragraphs (5)(a) to (d).

7.60 The canvass form must be pre-populated with data the ERO holds. It must:

- Require the full name and nationality of each resident aged 16 and over who is eligible to vote in either UK Parliamentary elections in England or Wales, or local government elections in England.
- Include the name and nationality of determined electors (as described at paragraph 7.25 above).
- Include a notification that matching data has been processed in accordance with any requirements relating to the protection of personal data (such as those currently contained in data protection legislation).
- Include space for email addresses and telephone numbers to be provided for each eligible resident at the address.
- Include a statement indicating that the information to be provided by a named person at the address is true.

7.61 Canvass communication B is also for the unmatched property route. There is nothing in the legislation in relation to this communication other than that the ERO can send it as any one (or more) of the full canvass process contact stages and that the ERO must use the communication designed and made available by the Electoral Commission. This is intended to give the Commission flexibility to innovate.

Regulation 12

7.62 With reference to paragraph 7.51 - 7.58 above which describe canvass communications, we have opted to remove much of the content which is prescribed for the current canvass form and not to prescribe content where it does not have a direct relevance to the purpose of the canvass.

7.63 The electoral register lists the names and addresses of everyone who is registered to vote in public elections. The register is used for electoral purposes, such as making sure only eligible people can vote. It is also used for other limited purposes specified

in law, such as: detecting crime (e.g. fraud), calling people for jury service, and checking credit applications.

7.64 The open register is an extract of the electoral register, but is not used for elections. It can be bought by any person, company or organisation. For example, it is used by businesses and charities to confirm name and address details.

7.65 These regulations remove the requirement to include details about the open/edited register, on the canvass form. An individual will have made a decision in respect of this and would have been provided with relevant information to support that decision, at the time of registering to vote.

7.66 Regulation 12 amends Regulation 93A(3) of the Representation of the People (England and Wales) Regulations 2001 by inserting the requirement that it refer only to local government registers in Wales. It will be for the Welsh Government to decide whether to legislate to remove the requirement in relation to the local government register in Wales.

Regulations 13 - 19

7.67 With reference to paragraphs 6.9 - 6.12 above and as set out in regulation 3(2), these regulations refer to Scotland. They are identical in structure and purpose to regulations 6 to 12 which extend to England and Wales only, save with the following differences:

- EROs are not required to collect information on whether residents are over 76, as the Juries Act 1974 does not apply in Scotland;
- there are differences in the specific list of properties to which the annual canvass process set out at regulation 32ZBF applies, which result from differences in the legislation applicable to Scotland.

Regulation 20 - Data matching confirmation

7.68 Regulation 11 inserts a new regulation 32ZBB which makes provision for the new data matching step, which will be a key element of the reformed canvass. Before the reformed canvass starts in July 2020 implementation plans include testing the data matching step. This will be a one-off test and will effectively be a practice run of what will happen on an annual basis following implementation of the reforms.

7.69 Provision for this test is made in regulation 20, paragraphs (1) - (8) and is almost identical to the provisions made for the data match itself. The only difference is that it is to be conducted "within the specified period", namely on a particular date or dates specified by the Minister for the Cabinet Office. It is currently scheduled to take place in early 2020 once the UK Government, Welsh Government, and Scottish Government Statutory Instruments have been made.

7.70 The purpose of conducting a test of the the data match step is to assist the successful implementation of canvass reform, by enabling EROs to gain a better understanding of the match results they are likely to achieve in their area and therefore how many properties are likely to be canvassed using the matched and unmatched property routes.

Regulation 21 - Processing of information in connection with data matching confirmation

7.71 This provision imposes the same conditions on the data match testing as are imposed on the national data match step and described in paragraphs 7.27 - 7.29 above.

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

9. Consolidation

9.1 There are no plans to consolidate the legislation.

10. Consultation outcome

10.1 An 8 week public consultation was held on the Policy Statement from the 5 October to 30 November 2018. 82 responses were received from electoral administrators and stakeholders including the Association of Electoral Administrators, the Electoral Commission and the Scottish Assessors Association. Respondents were asked to answer 19 questions on various aspects of the policy. Responses to the policy proposals were overwhelmingly positive.

10.2 Section 8 of the ERA 2013, Section 53 (5) of the Representation Act 1983 and Section 7(1) and (2)(e) of the Political Parties, Elections and Referendums Act 2000 make it obligatory for the Secretary of State to consult with the Electoral Commission, the Information Commissioner and any other person the Secretary of State thinks appropriate. Section 8 of the ERA 2013 sets out the requirements for the consultation with the Commission – for a period of no less than 3 months which includes the Electoral Commission preparing a report which accompanies the draft SI.

10.3 The consultation with the Electoral Commission began on 28 March 2019 and their report was published on 28 June. The full report accompanies this memorandum. It did not recommend any substantial changes to the policy.

10.4 The ICO was consulted on 30 May and their letter in response accompanies this memorandum.

11. Guidance

11.1 Non-statutory implementation guidance has been provided for EROs with regards to the data match testing provisions set out under regulations 20 and 21 in this SI

11.2 We are working closely with the Electoral Commission, who provide detailed guidance for EROs on running electoral registration and who will provide guidance on the annual canvass going forward.

12. Impact

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

12.2 The impact on the public sector is covered in the Impact Assessment published alongside the Instrument and this Memorandum.

12.3 An Equality Impact Assessment has been completed and will be published on the Gov.uk website.

13. Regulating small business

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

14. Monitoring & review

14.1 Under current legislation, the Electoral Commission is required to keep under review, and from time to time submit reports to the Secretary of State on electoral matters. As part of this work they keep the annual canvass under review and may publish reports on their findings. We intend for these reforms to the annual canvass process to be in place in time for the start of the 2020 annual canvass, and any future reviews by the Electoral Commission will therefore provide evidence about the operation of the provisions included within this SI. We will continue to work with the Electoral Commission, and other stakeholders, to ensure the successful implementation of these reformed annual canvass provisions, and to consider any recommendations arising from any future reports by the Electoral Commission after the 2020 annual canvass.

15. Contact

15.1 Claerwyn Hamilton-Wilkes at the Modern Registration Division, Constitution Group Telephone: 07566 292858 or email: claerwyn.hamilton@cabinetoffice.gov.uk can be contacted with any queries regarding the instrument.

15.2 Liz Owen, Deputy Director for Modern Registration Division, at the Cabinet Office can confirm that this Explanatory Memorandum meets the required standard.

15.3 Kevin Foster at the Cabinet Office can confirm that this Explanatory Memorandum meets the required standard.