EXPLANATORY MEMORANDUM TO

THE REPRESENTATION OF THE PEOPLE (COMBINATION OF POLLS) (ENGLAND AND WALES) (AMENDMENT) REGULATIONS 2015

2015 No. [XXXX]

1. 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 provisions in the Representation of the People (Combination of Polls) (England and Wales) Regulations 2004 which require that, for combined UK Parliamentary elections, a Returning Officer must verify all ballot paper accounts for all the polls before the count of the ballot papers used at the UK Parliamentary election may be begin.

2.2 The amendments remove this restriction so that the provisions for the start of the count reflect those for standalone UK Parliamentary elections, which permit (but do not require) Returning Officers to begin counting the UK Parliamentary ballot papers before the verification of all the ballot paper accounts is complete. The amendments require that verification of the ballot paper accounts relating to those ballot papers to be counted must have been completed before counting of those ballot papers can take place.

2.3 The amendments also require all ballot paper accounts for all the polls in the combined election to have been verified before the parliamentary election result can be declared.

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

3.1 None.

4. **Legislative Background**

4.1 Currently paragraph 22 of Schedule 2 to the Representation of the People (Combination of Polls) (England and Wales) 2004 Regulations, which contains modifications to the parliamentary elections rules that have effect when the poll at a parliamentary election is combined with a poll at another type of election or referendum, provides that at a combined UK Parliamentary election, a Returning Officer must verify all ballot paper accounts for all the polls before the count of the ballot papers used at the UK Parliamentary election may begin. This requirement contrasts with the requirements for the count in a standalone UK Parliamentary election under paragraph 45 of Schedule 1 to the Representation of the People Act 1983, which allow the Returning Officer to begin the count before all the ballot paper accounts have been verified.

4.2 Rule 45(3A) of Schedule 1 of the Representation of the People Act 1983 requires Returning Officers, for both standalone and combined UK parliamentary elections, to take reasonable steps to begin counting the votes given on parliamentary ballot papers as soon as practicable within the period of

four hours starting with the close of the poll. That requirement is more difficult to achieve in combined UK Parliamentary elections because all the ballot paper accounts in all polls must first have been verified, and the volume of ballot papers will be high.

4.3 The Police and Crime Commissioners Elections Order 2015 will operate to apply the amendments made by these Regulations to elections of Police and Crime Commissioners under Chapter 6 of Part 1 of the Police Reform and Social Responsibility Act 2011.

5. Territorial Extent and Application

5.1 This instrument extends to England and Wales.

6. European Convention on Human Rights

6.1 Sam Gyimah, Minister for the Constitution, Cabinet Office, has made the following statement regarding Human Rights:

"In my view the provisions of the Representation of the People (Combination of Polls) (England and Wales) (Amendment) Regulations 2015 are compatible with the Convention rights."

7. Policy background

7.1 In many areas in England on 7 May 2015, UK Parliamentary elections will be combined with parish council elections and / or scheduled local elections, which will increase the number of ballot papers returned for those areas. As polls that are combined with a UK Parliamentary election have higher turnouts than standalone polls, the number of ballot papers returned will be increased still further.

7.2 Under the current legislation, in a combined election returning officers are required to verify all ballot paper accounts for all the polls before the count of the ballot papers used at the UK Parliamentary election may be begin.

7.3 The effect of this requirement is that, where the ballot paper accounts for UK Parliamentary ballot papers which have been delivered from polling stations to the Returning Officer have all been verified, and the delivery of further UK Parliamentary ballot papers is awaited (for example, as a result of a delay), the Returning Officer is prevented from using his or her electoral staff's time efficiently by deploying them to begin the count of the UK Parliamentary ballot papers. The Returning Officer is under a duty to take reasonable steps to begin counting the votes given on the ballot papers as soon as practicable within the period of four hours starting with the close of poll.

7.4 In addition, counting agents and election agents are present in greater numbers at combined polls than standalone polls, along with media representatives. Preventing the flow of ballot papers to the count stage until verification is complete for all ballot paper accounts in all polls, is expected to cause difficulties with accommodating these attendees.

7.5 Amending the provisions in relation to combined UK parliamentary elections, so that the provisions on the count mirror more closely those for standalone polls, will allow Returning Officers to exercise greater flexibility in the

deployment of their staff, so the UK Parliamentary election result can potentially be declared sooner. It will also allow Returning Officers to more easily meet the requirement to take steps to begin the count within four hours of the close of the poll. In addition it will enable the individuals entitled to attend combined UK Parliamentary elections to be more easily accommodated.

7.6 Cabinet Office's planning for the General Election in 2015 has involved discussion with representatives on its Elections Policy and Co-ordination Group (UK government officials, the Electoral Commission, stakeholders (AEA, SOLACE) and Regional Returning Officers) about the effect of combined polls on the administration of the elections.

8. Consultation outcome

8.1 The Electoral Commission has been consulted on these Regulations in accordance with section 7(2)(e) of the Political Parties, Elections and Referendums Act 2000 (c.41). The Association of Electoral Administrators (AEA), and the Society of Local Chief Executives (SOLACE) and other interested parties have also been consulted on the draft regulations.

8.2 The Electoral Commission were satisfied that the drafting allows for more flexibility in verifying and counting for a combined UK Parliamentary election. They suggested that the drafting explicitly state that counting of ballot papers may commence only once ballot papers have been mixed with ballot papers from at least one other ballot box, and the ballot paper accounts for those ballot boxes have been verified. The instrument has been amended to incorporate this suggestion.

8.3 The AEA and SOLACE confirmed that they support the changes. Senior Returning Officers who attend a regular meeting with Government and other stakeholder organisations have confirmed that the changes will assist them by allowing a more flexible approach and better use of resources.

9. Guidance

9.1 The Electoral Commission issues guidance to Returning Officers on the conduct of elections. They have confirmed that they will amend their guidance to reflect the changes made by these regulations.

10. Impact

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

10.2 The impact on the public sector is positive.

10.3 An Impact Assessment has not been prepared for this instrument as it has not appreciable impact on the public sector and no impact on business, charities or voluntary bodies.

11. **Regulating small business**

11.1 The legislation does not apply to small business.

12. **Monitoring & review**

12.1 The Cabinet Office keeps all electoral legislation under review to ensure it continues to support electors' participation in elections and effective electoral administration.

12.2 In addition, under Section 6 of the Political Parties, Elections and Referendums Act 2000, the Electoral Commission has a statutory function to review matters relating to elections.

13. **Contact**

Fiona Willan at the Cabinet Office, tel 020 7271 6442: email: fiona.willan@cabinetoffice.gov.uk can answer any queries regarding the instrument.