EXPLANATORY MEMORANDUM TO

THE REPRESENTATION OF THE PEOPLE (ELECTORAL REGISTERS PUBLICATION DATE) REGULATIONS 2020

2020 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 set the date by which an Electoral Registration Officer (ERO) must publish the revised parliamentary electoral register (in England, Wales and Scotland) and the local government electoral register (in England) following the 2020 annual canvass, in accordance with section 13(1)(a) of the Representation of the People Act 1983 ("the 1983 Act") . The regulations effectively move this date from 1 December 2020 to 1 February 2021, allowing EROs an additional two months to complete the 2020 canvass as a result of the impact on local authorities from the Covid-19 pandemic.

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 Scotland.

3.3 This instrument applies in respect of the register of parliamentary electors maintained by electoral registration officers for areas in Great Britain.

4. Extent and Territorial Application

4.1 The territorial extent of this instrument is England and Wales and Scotland.

4.2 The territorial application of this instrument is England and Wales and Scotland. The instrument applies in respect of the register of parliamentary electors maintained by electoral registration officers for areas in Great Britain, and in respect of the register of local government electors maintained by electoral registration officers for areas in England.

4.3 Local government elections in Scotland and Wales are within the legislative competence of the Scottish Parliament and Senedd Cymru/Welsh Parliament respectively, and we anticipate that the Scottish Government and Welsh Government will bring forward their own statutory instruments in respect of the date by which the local government elector registers maintained by EROs for areas in Scotland and Wales are to be published.

5. European Convention on Human Rights

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

"In my view the provisions of the Representation of the People (Electoral Registers Publication Date) Regulations 2020 are compatible with the Convention rights."

6. Legislative Context

6.1 The requirement for an annual canvass to take place is set out in section 9A (*Registration officers*: duty to take necessary steps) and section 9D (Maintenance of registers: duty to conduct canvass in Great Britain) of the 1983 Act.

6.2 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 are registered. They are required to undertake all necessary steps including sending the canvass form and making household visits on one or more occasions.

6.3 Section 9D of the 1983 Act places a duty on EROs in Great Britain 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.

6.4 Section 13(1)(a) of the 1983 Act places a duty on EROs to publish each year a revised version of their register after the end of the annual canvass for that year, and no later than 1 December each year, or such later date that may be prescribed by regulations. The only exception, under section 13(1A) of the 1983 Act, is that, should an election be held between 1 July and 1 December in the ERO's area, the revised register's final publication date automatically becomes by 1 February the following year.

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. 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 The annual canvass period in England, Wales and Scotland typically runs from 1 July to 1 December, at which point EROs are required by law to publish a revised electoral register for their area. The only exception to this is where a poll is held in their area between 1 July and 1 December, when the deadline for publication of the revised register is automatically extended to 1 February the following year. This gives EROs an additional two months to complete their canvass and compile their revised register.

7.3 The Covid-19 pandemic has had a significant impact on the work of local authorities, with many electoral services staff being redeployed to work in frontline support roles and roles dedicated to combating the effects of the pandemic on their communities. Even where staff have remained in post, it is not always possible to carry out business as usual functions while working from home. While the annual canvass process has recently been modernised elements remain paper based and are reliant on the work of

staff in electoral services teams in local authorities to send out and receive paper correspondence. The lack of access to specialist software and printed correspondence, for example, causes particular difficulties.

7.4 The purpose of these regulations is to recognise the impact of Covid-19 on the work of electoral services teams, and more generally to support the important work being undertaken by local authorities across Great Britain, by allowing EROs an extra two months to complete their annual canvass and publish their revised 2020 register.

7.5 Regulation 2 provides that the date by which the 2020 revised parliamentary register by EROs for areas in Great Britain, and the local government register by EROs for areas in England, must be published is 1 February 2021.

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 Sections 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 before making regulations to which section 201(2) of the 1983 Act apply. The Electoral Commission has been consulted, and the Commission did not recommend any changes to the policy.

11. Guidance

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

12. Impact

12.1 The impact on business, charities or voluntary bodies is minimal.

12.2 One potential minor impact on business is on credit reference agencies who use the electoral register, amongst other sources, to update information held on individuals' Credit Reference files. While electoral registers are updated and published on a monthly basis, these monthly updates are not published in the two months before the publication of the final revised register, which in this instance would mean that the records held by credit reference agencies would not be updated in December 2020 or January 2021. Credit Reference agencies will still be able to use previously held electoral registers. However, this would also be true previously when a poll was held in an ERO's area between 1 July and 1 December (see section 6.4 above). We therefore do not expect this to have a significant impact on the work of credit reference agencies.

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

12.4 An Impact Assessment has not been prepared for this instrument because under this legislation EROs will be required to undertake the same activities as they would

normally, but they will be given an additional two months to complete them. As such we do not expect there to be any cost impact associated with this legislation.

13. Regulating small business

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

14. Monitoring & review

14.1 The approach to monitoring of this legislation is that 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. Given that this draft legislation makes a one off change to the deadline for publishing the 2020 revised register we do not intend to review it more substantively. We will, however, continue to work with the Electoral Commission, and other stakeholders, to ensure the successful implementation of the 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 Peter Newbitt-Jones at the Modern Registration Division, Constitution Group Telephone: 07710 856099 or email: peter.newbitt-jones@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 Chloe Smith MP, Minister for the Constitution and Devolution at the Cabinet Office, can confirm that this Explanatory Memorandum meets the required standard.