EXPLANATORY MEMORANDUM TO

THE SERVICE VOTERS REGISTRATION PERIOD ORDER 2010

2010 No. [XXXX]

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

2. Purpose of the instrument

2.1 The draft Order extends the length of the service declaration registration for members of the armed forces and their spouses or civil partners to five years. In doing so it replaces earlier provision made by the Service Voters' Registration Period Order 2006 (No. 3406) and the Service Voters' Registration Period (Northern Ireland) Order 2008 (No. 1726) and revokes those Orders. The Order also makes consequential amendments to regulations for England & Wales, Scotland and Northern Ireland relating to the obligation of Returning Officers to remind, at an appropriate time, those who have made service declarations that their declaration is about to expire.

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

3.1 There are not any matters that will be of special interest to the Joint Committee on Statutory Instruments.

4. Legislative Context

4.1 Section 15(9) of the Representation of the People Act 1983 (as amended by the Electoral Administration Act 2006) provides for the Secretary of State to amend Section 15(2)(a) of that Act by Order to extend the length of service declarations made by members of the armed forces and their spouses or civil partners. The Service Voters' Registration Period Order 2006 extended the duration of these service declarations to three years. The maximum to which the duration may be extended under section 15(9) is 5 years, as done by this Order.

4.2 Section 15(10) enables consequential and other provision to be made when exercising the power under section 15(9). Consequential amendments are required to regulation 25(3)(b) of the Representation of the People Regulations (England and Wales) 2001 and the equivalent regulations in the Representation of the People (Scotland) Regulations 2001 and the Representation of the People (Northern Ireland) Regulations 2008. These regulations oblige Returning Officers to remind those who have made service declarations that their declarations are about to expire.

5. Territorial Extent and Application

5.1 This instrument applies to all of the United Kingdom.

6. European Convention on Human Rights

Secretary of State, Jack Straw MP has made the following statement regarding Human Rights:
In my view the provisions of the Service Voters' Registration Period Order 2010 are compatible with the Convention Rights.

7. Policy background

- ***What is being done and why***

7.1 Prior to 2000 all service personnel who wished to be registered as electors had to register to vote by making a service declaration which was valid indefinitely. However, the Government, taking into account the recommendations of the Howarth Working Group (which was set up to consider electoral administration) amended the Representation of the People Act 1983 so that service personnel could register as an ordinary elector, in addition to a service declaration that would have to be renewed annually.

7.2 In line with Government's principles to increase registration amongst service personnel the Electoral Administration Act 2006 amended the Representation of the People Act 1983 to include provision that enabled the Secretary of State to make secondary legislation that would extend the length of service declarations from the standard 12 months to a maximum of five years in respect of members of the armed forces and their spouses or civil partners. The Government also included provision for the Ministry of Defence to keep a record of electoral registration information from such service personnel. The Service Voters' Registration Period Order 2006 and the Service Voters' Registration Period (Northern Ireland) Order 2008 were then made to extended the length of service declarations to three years.

7.3 Having consulted with the Electoral Commission, Electoral Registration Officers and other interested stakeholders the Government decided to exercise its delegated powers and extend the registration period based on such service declarations to five years. The intention is to increase convenience for service voters, whilst maintaining the accuracy of the electoral register. Feedback from representatives of members of the armed forces suggests that a period of five years would tie in better with both the electoral cycle and service periods overseas. Four years is the minimum period of service for a soldier, and elections are typically held in cycles of four or five years. Therefore, a declaration that lasts five years will cover all of the minimum service length and allow the Service voter to vote in at least one of each type of election.

7.4 In addition, Electoral Registration Officers are required to send a reminder to electors to renew their service declarations three months prior to the expiration of the service declaration. The Order now ensures that relevant regulations made for each part of the United Kingdom will require that reminder to be sent between 57 and 58 months after the date when the existing entry in a register, made further to a valid service declaration made by a member of the armed forces or their spouse or civil partner, first takes effect.

- ***Consolidation***

7.5 The instrument amends Scottish and Northern Ireland regulations but there are no plans to consolidate this legislation at the present time.

8. Consultation outcome

8.1 The Government has consulted with the Electoral Commission who responded positively to the proposed change.

9. Guidance

9.1 The Electoral Commission will update its existing guidance in relation to service declarations that is issued both to members of the armed services and Electoral

Registration Officers to make them aware of the changes made by this Order and its implications.

10. Impact

10.1 The impact on business, charities or voluntary bodies is none.

10.2 The impact on the public sector is that the Electoral Commission will have to produce updated forms and guidance. The cost for this is minimal as these forms and guidance are regularly updated to suit campaigns.

10.3 An Impact Assessment has not been prepared for this instrument.

11. Regulating small business

11.1 The legislation does not apply to small business.

12. Monitoring & review

12.1 This amendment is intended to facilitate the registration and, ultimately, the electoral participation of service personnel. The Ministry of Defence conduct an annual Service Voters Survey and their next survey, to be conducted following the Autumn 2010 registration campaign, will assess trends in service voting.

13. Contact

James Dowler at the Ministry of Justice Tel: 0203 334 3837 or email: james.dowler@justice.gsi.gov.uk can answer any queries regarding the instrument.