EXPLANATORY MEMORANDUM TO

THE VOTER IDENTIFICATION (AMENDMENT OF LIST OF SPECIFIED DOCUMENTS) REGULATIONS 2024

2024 No. [XXXX]

1. Introduction

1.1 This explanatory memorandum has been prepared by the Ministry of Housing, Communities and Local Government and is laid before Parliament by Command of His Majesty.

1.2 This memorandum contains information for the Joint Committee on Statutory Instruments.

2. Declaration

2.1 Alex Norris, Parliamentary Under Secretary of State for Democracy and Growth at the Ministry for Housing, Communities and Local Government confirms that this Explanatory Memorandum meets the required standard.

2.2 Becca Crosier, Deputy Director for Elections Division at the Ministry for Housing, Communities and Local Government confirms that this Explanatory Memorandum meets the required standard.

3. Contact

3.1 Claerwyn Hamilton-Wilkes at the Ministry for Housing, Communities and Local Government, Claerwyn.hamilton-wilkes@communities.gov.uk can be contacted with any queries regarding the instrument.

Part One: Explanation, and context, of the Instrument

4. Overview of the Instrument

What does the legislation do?

4.1 The instrument updates the rules for the administration of elections by amending the list of accepted forms of photographic identification for the purposes of voting in person. It does this by adding the Ministry of Defence Form 100 (HM Armed Forces Veteran Card) (Veteran Card) to this list.

4.2 Holders of the Veteran Card will be able to use it to prove their identity when voting in person at a polling station.

4.3 Additionally, the regulations make two small amendments to the current list. The first clarifies the entries relating to Commonwealth Passports. The second change is to vary the entry relating to the Scottish National Entitlement Card (Scottish NEC). The change will allow all Scottish NEC cards, including those that have been issued for non-travel purposes, to be accepted.

4.4 The regulations also include amended prescribed poll cards and petition notices forms for a number of election and referendum types and for recall petitions in Great Britain under the Recall of MPs Act 2015, as a consequence of the changes to the list.

Where does the legislation extend to, and apply?

4.5 The extent of this instrument (that is, the jurisdiction(s) which the instrument forms part of the law of) is England, Wales and Scotland.

4.6 The territorial application of this instrument (that is, where the instrument produces a practical effect) is England, Wales and Scotland.

5. Policy Context

5.1 The Elections Act 2022 amended the parliamentary election rules set out in Schedule 1 to the Representation of the People Act 1983 to introduce the requirement for voters to show photographic identification when voting in person in a polling station.

5.2 The list of accepted forms for photographic identification is set out in rule 37 of Schedule 1 of the Act and includes passports, driving licences, various concessionary travel cards, disabled badges and the Ministry of Defence Form 90 (Defence Identity Card).

Veteran Cards

5.3 The Veteran Card was formally launched in January 2024. It is available to all veterans (estimated to be around 2 million people in the UK), free of charge. The majority of veterans apply online, where identity checks are carried out via GOV.UK One Login and are cross-verified by the Ministry of Defence, ensuring a high level of security.

5.4 Including the Veteran Card in the list of accepted voter ID supports service leavers who left before 2018 and were not permitted to keep their Defence Identity Card, which is already in the list of accepted documents.

5.5 The inclusion of the Veteran Card fulfils one of the current Government's manifesto commitments.

Commonwealth Passports

5.6 The current list permits a passport from "a Commonwealth country" to be accepted. In electoral legislation, a person meets the criteria for registration as an elector if they are a qualifying Commonwealth citizen. "Commonwealth citizenship" in that context is defined not by a country's current Commonwealth membership but by whether a country is included in a list of countries set out in Schedule 3 to the British Nationality Act 1981. This list includes Zimbabwe which was previously a member of the Commonwealth.

5.7 This instrument amends the accepted identification list to include a specific reference to countries listed in Schedule 3 to the 1981 Act so that the list of acceptable identification matches with electoral registration criteria. Zimbabwean Citizens who are therefore eligible to register to vote will be able to use their Zimbabwean passports as valid voter ID.

Scottish National Entitlement Cards

5.8 The Scottish NEC is currently included on the list of relevant concessionary travel passes which are acceptable identification for voters. However, Scottish NECs are issued for a variety of reasons other than just concessionary travel, for example for accessing libraries, membership of council run leisure centres, discounted theatre tickets, health reward initiatives such as smoking cessation schemes and as a cashless payment method for meals at sheltered housing complexes.

5.9 Inclusion on the list of relevant concessionary travel passes means any Scottish NECs issued other than for travel purposes could not, in law, be accepted at the polling station. This is illogical and unhelpful for electors and polling station staff and we are taking the opportunity to rectify the position.

5.10 The instrument effectively expands the entry on the list for Scottish NECs. This change means all holders of the Scottish NEC are able to use them as identification when voting in person.

6. Legislative and Legal Context

How has the law changed?

6.1 The Elections Act 2022 amended the parliamentary election rules as set out in Schedule 1 to the Representation of the People Act 1983. Rule 37 of those rules was amended to include a list of acceptable photographic identification for the purposes of voting in person in a polling station at a parliamentary election. The list also is applied by other types of elections, local referendums and recall petitions.

6.2 The instrument makes changes to the list of acceptable identification as outlined above. As a consequence of these changes to the list, the instrument also updates the prescribed form of poll cards for electors and proxies voting in person at parliamentary elections in England, Wales and Scotland, Police & Crime Commissioner elections in England and Wales, and mayoral elections and local referendums in England. The equivalent petition notices for electors or proxies signing a recall petition in person in respect of recall petitions held in England, Wales or Scotland under the Recall of MPs Act 2015 are also updated. Each of these prescribed forms contain the full list of acceptable documents.

6.3 Why was this approach taken to change the law?

6.4 Rule 37(1Q) of Schedule 1 to the Representation of the People Act 1983 gives the Secretary of State the power to amend the list to add or remove different forms of identification, or to vary existing list entries, via subordinate legislation. As the list is set out in legislation, it is not possible to make the necessary changes without legislation.

7. Consultation

Summary of consultation outcome and methodology

7.1 The Electoral Commission were consulted on these Regulations and no substantial policy objections were raised. They also agreed to wording changes made to the associated forms.

8. Applicable Guidance

8.1 The Electoral Commission issues guidance to electoral administrators relating to the administration and conduct of elections, referendums and recall petitions, and to candidates standing at elections. They will update the guidance as necessary in advance of future polls to reflect the changes set out in this instrument.

Part Two: Impact and the Better Regulation Framework

9. Impact Assessment

9.1 A full Impact Assessment has not been prepared for this instrument because there is no or no significant impact resulting from the changes.

Impact on businesses, charities and voluntary bodies

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

9.3 The legislation does not impact small or micro businesses.

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

10. Monitoring and review

What is the approach to monitoring and reviewing this legislation?

10.1 The Electoral Commission will produce reports on the administration and conduct of elections, and the Ministry for Housing, Communities and Local Government will consider any findings or recommendations made by the Electoral Commission about the changes in these instruments that will apply at those polls.

10.2 In accordance with section 62 of the 2022 Act, the Secretary of State must prepare and publish a report on the operation of the 2022 Act, as well as lay a copy of the report before Parliament, between 4 and 5 years after the day on which the 2022 Act was passed.

10.3 The Ministry for Housing, Communities and Local Government will continue to keep all electoral legislation under consideration to ensure it continues to support electors' participation in elections and effective electoral administration.

Part Three: Statements and Matters of Particular Interest to Parliament

11. Matters of special interest to Parliament

11.1 In addition to the main changes described above, the replacement of Form 10 in the Neighbourhood Planning (Referendums) Regulations 2012 by regulation 8 of and Part 2 of Schedule 7 to, the instrument also corrects a small error in the current version of the form introduced by an earlier instrument. The Department has complied with the requirement stated in paragraph 4.7.6 of Statutory Instrument Practice to consult with the SI Registrar. Having done so, the Department has concluded that it is not necessary to apply the free issue procedure in this case.

12. European Convention on Human Rights

12.1 Alex Norris, Parliamentary Under Secretary of State for Democracy and Growth at the Ministry for Housing, Communities and Local Government has made the following statement regarding Human Rights:

"In my view the provisions of the Voter Identification (Amendment of List of Specified Documents) Regulations 2024 are compatible with the Convention rights."

13. The Relevant European Union Acts

13.1 This instrument is not made under the European Union (Withdrawal) Act 2018, the European Union (Future Relationship) Act 2020 or the Retained EU Law (Revocation and Reform) Act 2023 ("relevant European Union Acts").