EXPLANATORY MEMORANDUM TO

THE ELECTORAL REGISTRATION (POSTPONEMENT OF 2013 ANNUAL CANVASS) ORDER 2013

2013 No. 794

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 This Order provides for the postponement of the 2013 annual household canvass which would otherwise have taken place between July and December 2013. Once the Order is in force the canvass will run from 1st October 2013 to 17th February 2014 in England and from 1st October 2013 to 10th March 2014 in Scotland and Wales. The objective in moving the canvass is to enable a more complete and accurate electoral register to be used for the transition to Individual Electoral Registration (IER) in the summer of 2014.

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

3.1 None

4. Legislative Context

4.1 Paragraph 9(1) of Schedule 5 to the Electoral Registration and Administration Act 2013 provides that the Minister may by order (a) postpone any canvass to be conducted under section 10(1) of the Representation of the People Act 1983; (b) make provision about the period during which canvass forms to be used for the purpose of such a canvass are to be given.

4.2 Under section 11(2) of the Electoral Registration and Administration Act 2013 the making of this instrument is subject to the affirmative resolution procedure.

5. Territorial Extent and Application

5.1 This instrument does not extend to Northern Ireland.

6. European Convention on Human Rights

6.1 The Minister for Political and Constitutional Reform has made the following statement regarding Human Rights:

> In my view the provisions of the Electoral Registration (Postponement of 2013 Annual Canvass) Order 2013 are compatible with the Convention rights.

7. Policy background

7.1 The Government has made a commitment to introduce legislation to speed up the implementation of individual electoral registration. The Electoral Registration and Administration Act 2013 enables the Government to amend the existing position so that electors will be asked to register individually from 2014 in order to modernise the electoral registration system and tackle fraud. Electors will be asked to provide identifying information which will be checked before they are added to the electoral register. The IER process will replace the existing system of household registration, but its implementation could potentially have meant every elector or potential elector having to re-register in 2014 by providing their personal identifiers to their electoral registration office. This would have been a resource-intensive process which (from the evidence of the introduction of individual registration in Northern Ireland) would have been likely to result in significant numbers of people ceasing to be registered.

7.2 Pilot schemes conducted in 2011 suggested that data matching might be used as a mechanism for confirming existing electors for the purposes of IER, allowing individuals whose details could be matched against trusted public databases to be "passported" on to the new individual electoral registration register without making a new application for registration. This would make the process simpler and more efficient for electors and for electoral registration officers, freeing up resources to concentrate on the much smaller group of people whose information could not be matched. Further testing in 2012 indicated that, on average, it should be possible for registration officers to pre-populate around 70 per cent of their register without writing out to the electorate. The Government has therefore decided to go ahead with data matching to confirm existing electors on the register at the transition to IER.

7.3 For the confirmation matching process to produce optimum results, however, it is important that the electoral register to be used for the transition in the summer of 2014 is complete and accurate, so that as many existing electors as possible will be moved automatically on to the IER register to be published in December 2014. Research shows that registers decline in accuracy at a rate of approximately 1 per cent per month, and during public consultation and pre-legislative scrutiny in late 2011 widespread concern was expressed that to begin the transition to IER on a seven month old register would result in many electors dropping off the register. Mixed views were expressed as to whether or not there should be a household canvass in 2014, and in February 2012 it was announced in the Government response to the Political and Constitutional Reform Committee's final report on the draft legislation that having considered the views of the Committee and electoral administrators, it was intended to move the 2013 canvass to early 2014. The Order will enable the canvass to be moved accordingly, significantly reducing (but not eliminating) the decline in the accuracy of the register before the transition begins.

7.4 The Order provides for the canvass to begin on 1st October 2013 and for the registers to be published on 17th February 2014 in England and 10th March 2014 in Scotland and Wales. In the case of England, ending the canvass on 17th February would allow a period of two and a half months from the publication of the register to the date of local elections (based on a "worst case" assumption

that there will be separate local and European elections in May 2014, with local elections at the beginning of the month and European Parliament elections at the end). As there will be few local elections in Wales and none in Scotland, specifying a later date for the publication of the new registers there would maximise the advantage to IER of moving the canvass.

7.5 Additionally, article 2(4) of the Order will remove the "reference date" from the postponed 2013 canvass. Under existing legislation the canvass is conducted by reference to 15th October (i.e. the form requests details of people resident and eligible to register at the property on 15th October). Electors have found the reference date confusing, and it also deprives EROs of flexibility. It will not in any event apply to the IER system, and the Government considers that it should be removed from the postponed 2013 canvass. Article 4(2) and (3) makes consequential changes to regulations to ensure that the wording on canvass forms reflects the changes made by this order.

8. Consultation outcome

8.1 On publication of the Government response to the Political and Constitutional Reform Committee's final report on the draft legislation in February 2012, the Electoral Commission commented that "We are pleased the Government has recognised our concerns that the transition to IER needs to be based on the most complete and accurate registers possible, and that it has therefore proposed to move the autumn 2013 canvass to spring 2014. However because the quality of registers deteriorates by 1% each month following a canvass, the Government needs to ensure that the gap between the canvass and the write out to electors, to explain that the system is changing, is as short as possible".

8.2 The Electoral Commission has since been consulted on the Order in accordance with section 7(1) of the Political Parties, Elections and Referendums Act 2000. The Commission welcomed the proposal to postpone the start of the annual canvass and to delay the publication of revised electoral registers to the spring of 2014. The Commission recommended however that the Order should be amended to specify that canvass activity should not begin before 1st November 2013, so reducing the period between the start of the canvass and the July 2014 confirmation exercise while still allowing meaningful canvass activity to start before Christmas 2013. The 1st October date is designed to give EROs flexibility over the start date of canvass activity in their districts. The dates set out in the Order reflect the best balance of different considerations around the canvass, following discussions with electoral administrators, political parties and the Commission. The Commission also made recommendations about the setting of dates for elections in 2014, but we are unable to respond to those in the context of the present instrument. Finally, the Commission asked the Government to explain why Article 4(4) of the Order specified 1st April 2014 as the date until which the current provisions for enabling elections to be held during the canvass period would be applied. This has since been changed to 17th February in England and 10th March in Scotland and Wales, reflected in article 4(1)(d) in the order.

8.3 The Association of Electoral Administrators, the Scottish Assessors Association and the major political parties have also been consulted.

9. Guidance

9.1 Guidance will be issued to registration officers as and when required on all aspects of the transition to individual registration, including the postponement of the 2013 annual canvass.

10. Impact

10.1 An overall Impact Assessment for IER is available on the Cabinet Office website at http://www.cabinetoffice.gov.uk/sites/default/files/resources/IER-Impact-Assessment-090512.pdf . A full regulatory impact assessment has not been prepared for this instrument because no impact on the private or voluntary sector is foreseen.

11. Regulating small business

11.1 The legislation does not apply to small business.

12. Monitoring & review

12.1 This order makes a one-off change to the timing of the Annual Canvass in Great Britain. No monitoring or review is required.

13. Contact

Jon Hoare at the Cabinet Office, tel 07824 475441: email: Jon.Hoare@cabinet-office.gsi.gov.uk can answer any queries regarding the instrument.