EXPLANATORY MEMORANDUM TO

THE EUROPEAN UNION REFERENDUM (WELSH FORMS) REGULATIONS 2016

2016 No. 220

1. Introduction

1.1 This explanatory memorandum has been prepared by Cabinet Office and is laid before Parliament by Command of Her Majesty.

2. Purpose of the instrument

2.1 This Order specifies Welsh (and Welsh and English) versions of forms and forms of words for use in Wales at the referendum on the United Kingdom's membership of the European Union.

3. Matters of special interest to Parliament

Matters of special interest to the Joint Committee on Statutory Instruments

3.1 None.

Other matters of interest to the House of Commons

3.2 As this instrument is not subject to parliamentary procedure, consideration as to whether there are other matters of interest to the House of Commons does not arise at this stage.

4. Legislative Context

4.1 Section 1 of the European Union Referendum Act 2015 (the "2015 Act") requires a referendum to be held on the United Kingdom's membership of the European Union before the end of 2017. Forms and forms of words for use at the referendum are specified in the European Union Referendum (Conduct) Regulations 2016 made under section 4 of the 2015 Act. This Order specifies Welsh and Welsh and English versions of those forms and forms of words for use in Wales at the referendum.

4.2 This Order is made under section 26(2) of the Welsh Language Act 1993. That section provides that, where an Act specifies a form or form of words, the "appropriate Minister" may specify Welsh (or Welsh and English) versions in an order under the section. Section 9(6) of the 2015 Act provides that section 26 of the Welsh Language Act applies in relation to regulations under the 2015 Act as it applies in relation to Acts of Parliament. Accordingly, section 9(6) allows an order under section 26(2) of the Welsh Language Act to specify Welsh versions of forms etc specified in regulations made under section 4 of the 2015 Act. The "appropriate Minister" for these purposes is, under section 27(4) of the Welsh Language Act read with the definition of "the Minister" in section 11(1) of the 2015 Act, the Secretary of State or the Chancellor of the Duchy of Lancaster.

5. Extent and Territorial Application

5.1 This Order extends to each part of the United Kingdom (as do the sections of the Welsh Language Act 1993 under which the instrument is made).

5.2 This Order applies only in Wales (see articles 3 and 4(1) to (4) which provide that the forms prescribed by the Order may be used in Wales at the European Union referendum).

6. European Convention on Human Rights

6.1 As the instrument is not subject to parliamentary procedure, no statement is required.

7. Policy background

What is being done and why

7.1 As noted above, section 1 of the 2015 Act requires a referendum on the United Kingdom's membership of the European Union to be held before the end of 2017. The European Union Referendum (Conduct) Regulations 2016 specify forms and forms of words for use at the referendum. This Order specifies translated versions in Welsh and Welsh and English for use in Wales. Examples of the types of forms and forms of words specified are as follows:

- The ballot paper, including the Welsh versions of the referendum question and answers recommended by the Electoral Commission and set out in section 1 of the 2015 Act.
- A postal voting statement to be completed by a person voting by post and returned with the completed ballot paper.
- Poll cards for people voting (in person or by post) on their own behalf or as a proxy.
- A notice giving directions for the guidance of voters in voting to be exhibited inside polling stations.
- The form of questions that may be put to a person applying for a ballot paper at a polling station.

8. Consultation outcome

8.1 The Cabinet Office consulted the Electoral Commission, a translator employed by a local authority in Wales whose role includes translating election forms into Welsh and a lawyer employed by the Welsh Government's Office of Legislative Counsel on the language used in the forms set out in the Order. Suggestions made by each of them have been incorporated into the forms. The forms are in line with forms that have been used for previous polls. The Cabinet Office has previously consulted interested bodies on those forms (in particular, SCOPE – the disability charity) and they were also subject to a programme of public user testing.

9. Guidance

9.1 The Electoral Commission issues guidance to electoral administrators relating to the administration and conduct of elections and referendums. It will issue guidance on the conduct of the European Union referendum which will reflect the provisions set out in this Order.

10. Impact

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

10.2 The instrument will impact on the public sector in that it specifies forms that Counting Officers in Wales will be required to use in conducting the European Union referendum. The instrument will have no impact on the public sector beyond the referendum.

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

11. Regulating small business

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

12. Monitoring & review

12.1 Under section 5 of the Political Parties, Elections and Referendums Act 2000, the Electoral Commission will, following the European Union referendum, be required to prepare and publish a report on the administration the referendum. The Cabinet Office will consider any findings or recommendations made by the Commission, including about the forms or forms of words in the Order. The Cabinet Office will continue to keep all electoral legislation under review to ensure it continues to support electors' participation in elections and referendums, and effective electoral administration. In addition, the Law Commission is currently undertaking a review of electoral law in the United Kingdom and expects to present its recommendations to Government in 2016.

13. Contact

13.1 Peter Richardson at the Cabinet Office, Telephone: 020 7271 6433 or email: peter.richardson@cabinetoffice.gov.uk can answer any queries regarding this instrument.