EXPLANATORY MEMORANDUM TO

THE LOCAL AUTHORITIES (MAYORAL ELECTIONS) (ENGLAND AND WALES) (AMENDMENT) REGULATIONS 2011

2011 No. 926

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 instrument amends the Local Authorities (Mayoral Elections) (England and Wales) Regulations 2007 (SI 2007/1024) ("the 2007 Regulations") to allow the use of emblems registered by registered political parties with the Electoral Commission on ballot papers by candidates standing for election on behalf of two or more registered political parties at local authority mayoral elections in England and Wales.

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

3.1 None.

4. Legislative Context

4.1 The 2007 Regulations set out the rules governing the conduct of local authority mayoral elections in England and Wales. Schedule 1 (The Mayoral Elections Rules) and Schedule 3 (Mayoral Elections (Combination of Polls) Rules) to the 2007 Regulations include provision to enable a candidate to present themselves as standing on behalf of two or more parties, provided that the nominating officer of each of the parties authorises it. However, under the wording of the 2007 Regulations, it is not possible for such a candidate to request that the ballot paper on which they appear may feature an emblem registered by one of the political parties with the Electoral Commission under section 29(1) of the Political Parties, Elections and Referendums Act 2000.

4.2 This is an unintended effect of the drafting of the 2007 Regulations and has created an inconsistency with a candidate standing on behalf of one political party only who, under the 2007 Regulations, may request that the ballot paper features, alongside the candidate's particulars, a registered emblem. This replicates a similarly unintended effect in the drafting of the Parliamentary Elections Rules (PERs) in the Representation of the People Act 1983 (as amended by provisions in the Electoral Administration Act 2006) in relation to the use of emblems on ballot papers at UK Parliamentary elections.

4.3 The issue arises in the context of the 2007 Regulations as rule 18(4) in Schedules 1 and 3 (about candidates using an emblem on the ballot paper) only makes reference to rule 7(1) which concerns a candidate standing for a single party. In order to cover candidates standing for two or more parties, rule 18(4) would have also needed to refer to rule 7(3) which concerns a candidate standing for more than one party. These Regulations remedy this issue for mayoral elections.

5. Territorial Extent and Application

5.1 This instrument applies to local authority mayoral elections in England and Wales. There are no equivalent elections in the rest of the United Kingdom.

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 Local Authorities (Mayoral Elections) (England and Wales) (Amendment) Regulations 2011 are compatible with the Convention rights.

7. Policy background

7.1 Under section 29 of the Political Parties Elections and Referendums Act 2000 a political party registered with the Electoral Commission may register with the Commission up to three emblems for use on ballot papers.

7.2 At the General Election in May 2010, it became clear that amendments to electoral legislation made by the Electoral Administration Act 2006 had had the unintended effect of preventing candidates standing on behalf of two or more registered political parties at UK Parliamentary elections from using a party emblem registered by one of those parties on the ballot paper.

7.3 These provisions had been mirrored in the rules governing the conduct of various other elections, including the rules for local authority mayoral elections in England and Wales. This instrument addresses the oversight in the 2007 Regulations, allowing candidates who are authorised to stand on behalf of more than one party at local authority mayoral elections in England and Wales to use an emblem registered with the Electoral Commission by one of those political parties, if they wish to do so. The instrument allows such a candidate to use one emblem only on the ballot paper – which must be an emblem registered with the Electoral Commission by one of the parties for whom they are standing. This maintains the current policy that candidates nominated by a political party may have one emblem only feature against their details on the ballot paper. This will ensure there is consistency at these elections in the use of registered emblems on ballot papers between candidates standing on behalf of a single party and those standing on behalf of more than one party.

7.4 The same issue was replicated in the drafting of the Local Elections (Principal Areas) (England and Wales) Rules 2006 (SI 2006/3304) and the Local Elections (Parishes and Communities) (England and Wales) Rules 2006 (SI 2006/3305). Similar amending Statutory Instruments are being brought forward to address the issue in these two instruments in time for the elections scheduled for May 2011.

7.5 It will require primary legislation to address the issue for UK Parliamentary elections, and the Government will look for an opportunity to do this in advance of the next General Election.

8. Consultation outcome

8.1 This issue was raised by the Electoral Commission and the Association of Electoral Administrators in their reports on the May 2010 General Election, and discussions have been ongoing with them and the main political parties on this issue. There is a broad consensus that the issue should be addressed at an early opportunity and in time for the elections scheduled to take place in May 2011.

8.2 The Lord President of the Council has consulted the Electoral Commission in preparing this instrument in accordance with section 7(1) and 7(2)(d) of the Political Parties, Elections and Referendums Act 2000. The Electoral Commission has indicated that it is content with the changes being made to the 2007 Regulations.

9. Guidance

9.1 The Electoral Commission is responsible for issuing guidance to electoral administrators, candidates and political parties on matters relating to the conduct of elections and we therefore expect that the Electoral Commission will include information about these changes, and how they impact upon electoral law and the administration of elections, in future guidance to these persons and bodies. Cabinet Office officials will ensure that the Electoral Commission and other key electoral stakeholders are aware of the changes being made to the 2007 Regulations.

10. Impact

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

10.2 The impact on the public sector is minimal.

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 The Electoral Commission produces reports on the administration of elections which will normally include an assessment of any changes to electoral legislation, and we would expect that the Electoral Commission will cover the changes made by this instrument in its future election reports.

13. Contact

Peter Richardson at the Cabinet Office Tel: 020 3334 3885 or email: Peter.Richardson@justice.gsi.gov.uk can answer any queries regarding the instrument.