EXPLANATORY MEMORANDUM TO

THE LOCAL AUTHORITIES (MAYORAL ELECTIONS) (ENGLAND AND WALES) (AMENDMENT) REGULATIONS 2012

2012 No. 2059

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 These regulations amend the Local Authorities (Mayoral Elections) (England and Wales) Regulations 2007 (SI 2007/1024) ("the 2007 Regulations"). They prescribe new forms and notices to be used at mayoral elections in England and Wales. They also correct minor drafting errors in the 2007 Regulations.

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

3.1 Regulations 5(1) and 7 correct minor errors in rule 5(3) of schedule 1 to the 2007 Regulations and rule 5(3) of schedule 3 to the 2007 Regulations. These rules – which are about publishing a "notice of election" - refer in error to the "returning officer". These regulations will substitute the references to the "returning officer" with references to the "registration officer".

4. Legislative Background

4.1 In the 2007 Regulations, schedule 1 (the mayoral elections rules) and schedule 3 (the mayoral election (combination of polls) rules) set out the rules governing the conduct of mayoral elections in England and Wales and prescribe certain forms and notices.

4.2 The draft Police and Crime Commissioner Elections Order 2012 ("the PCC Elections Order") was laid before Parliament on 15 May 2012 and sets out the rules governing the conduct of elections for Police and Crime Commissioners. The PCC Elections Order will prescribe forms and notices for use at PCC elections, including particular forms and notices to be used when the poll at a PCC election is combined with a poll at a mayoral election.

4.3 These regulations amend the 2007 Regulations with the result that voter-facing forms and notices prescribed in the 2007 Regulations will be consistent with those to be prescribed in the PCC Elections Order.

5. Territorial Extent and Application

5.1 This instrument applies to England and Wales.

5.2 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 2012 are compatible with the Convention rights.

7. Policy background

7.1 The 2007 Regulations prescribe forms and notices to be used by Returning Officers in the conduct of mayoral elections. As is common in elections legislation, two sets of forms and notices are prescribed: one for use when a poll at a mayoral election is taken alone (see schedule 1); one for use when a mayoral election is "combined" (i.e. administered together with) a poll at another election or referendum (see schedule 3).

7.2 These regulations amend the 2007 Regulations by prescribing updated voter-facing forms and notices with layout, textual and other changes. These forms and notices will be used where the poll at a mayoral election is taken alone or where it is combined with a poll at a PCC election only. Where a poll at a mayoral election is combined with a poll at any other election or referendum, the old forms and notices will continue to be used.

7.3 The Government has received recommendations from the Electoral Commission and other stakeholders for improvements to be made to the quality and design of its statutory election materials. The Government has acted positively on the points which have been made and has started to take concrete steps to improve such materials. This includes revising forms and notices for mayoral elections under these regulations.

7.4 The first PCC elections will take place on 15 November 2012. Following development work and user-testing, the Home Office has produced voter-facing forms and notices for use at these new elections which are different in design and content from the forms and notices specified in legislation governing the conduct of other elections, and are intended to be clearer and more accessible to voters.

7.5 The Government is intending to conduct a wider review to promote consistency and clarity in voter-facing material across elections, including for UK Parliamentary and local elections. However, a mayoral election will take place in Bristol on 15 November 2012 and the poll at that election will be combined with the poll at the PCC election in that area. This means that voters in Bristol will be voting simultaneously in these two elections. The Government has therefore taken the view that, as a priority, the voter-facing forms and notices for use at mayoral elections ought to be revised to make them clearer and more accessible for voters and for consistency with the forms and notices that will be used at PCC elections.

7.6 Where a poll at a mayoral election is combined with a poll at any other election or referendum, the old forms and notices will continue to be used. Changing the forms and notices to be used at mayoral elections combined with these other polls would necessitate a range of consequential changes in other elections legislation. This will be considered as part of the wider review.

8. Consultation outcome

8.1 The Lord President of the Council has consulted the Electoral Commission in preparing these regulations in accordance with section 44(3A) of the Local Government Act 2000. The Commission has indicated that it is content.

8.2 The Association of Electoral Administrators (AEA) and SCOPE (disability charity) have also been consulted on the draft forms and notices.

8.3 As has been explained above, the design and wording of the forms and notices specified in these regulations closely follows those included in the PCC Elections Order. In producing the forms and notices in the PCC Elections Order the Home Office undertook a wider programme of research and user-testing.

9. Guidance

9.1 The Electoral Commission issues guidance to returning officers on the conduct of elections. No further guidance is likely to be required as a result of the changes made by these regulations.

10. Impact

10.1 The impact on business, charities or voluntary bodies is nil.

10.2 The impact on the public sector is minimal.

10.3 An Impact Assessment has not been prepared for this instrument as it has no impact on business, charities or voluntary bodies.

11. Regulating small business

11.1 The legislation does not apply to small business.

12. Monitoring & review

12.1 Under Section 6 of the Political Parties Elections and Referendums Act 2000, the Electoral Commission has a statutory function to review matters relating to elections, including Mayoral elections. The Government expects that the Electoral Commission will consider the impact of the new Mayoral forms and notices as part of that function.

12.2 The Cabinet Office meets regularly with representatives of the Electoral Commission and electoral administrators and will seek feedback from them regarding the use of the new forms following the poll on 15 November 2012.

13. Contact

13.1 Simon Meats at the Cabinet Office's Elections and Democracy Division on 020 7271 6423, or simon.meats@cabinet-office.gsi.gov.uk can answer any queries regarding the instrument.