EXPLANATORY MEMORANDUM TO

THE LOCAL ELECTIONS (PRINCIPAL AREAS) (ENGLAND AND WALES) (AMENDMENT) RULES 2011

2011 No. 563

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 Elections (Principal Areas) (England and Wales) Rules 2006 (SI 2006/3304) ("the 2006 Rules") 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 government 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 2006 Rules set out the rules governing the conduct of local government elections in England and Wales. Schedule 2 (Rules for conduct of an election of councillors of a principal area where poll is not taken together with poll at another election) and Schedule 3 (Rules for conduct of an election of councillors of a principal area where the poll is taken together with the poll at a relevant election or referendum) to the 2006 Rules 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 2006 Rules, it is not possible for the ballot paper to feature, alongside such a candidate, an emblem of one of the political parties for which s/he intends to stand which has been registered 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 2006 Rules and has created an inconsistency with a candidate standing on behalf of one political party only who, under the 2006 Rules, 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 2006 Rules as rule 16(3) in Schedules 2 and 3 (about candidates using an emblem on the ballot paper) only makes reference to rule 5(1) which concerns a candidate standing for a single party. In order to cover candidates standing for two or more parties, rule 16(3) would have also needed to refer to rule 5(3) which concerns a candidate standing for more than one party. These Rules remedy this issue for local government elections.

5. Territorial Extent and Application

5.1 This instrument applies to local government elections in England and Wales.

6. European Convention on Human Rights

6.1 As the instrument is subject to the negative resolution procedure and does not amend primary legislation, no statement is required.

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 government elections in England and Wales. This instrument addresses the oversight in the 2006 Rules, allowing candidates who are authorised to stand on behalf of more than one party at local government 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 featured 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 (Parishes and Communities) (England and Wales) Rules 2006 (SI 2006/3305) and the Local Authorities (Mayoral Elections) (England and Wales) Regulations 2007 (SI 2007/1024). 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 (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 2006 Rules.

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 2006 Rules.

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.