EXPLANATORY MEMORANDUM TO

THE LOCAL ELECTIONS (PRINCIPAL AREAS) (ENGLAND AND WALES) (AMENDMENT) RULES 2015

2015 No. 103

AND

THE LOCAL ELECTIONS (PARISHES AND COMMUNITIES) (ENGLAND AND WALES) (AMENDMENT) RULES 2015

2015 No. 104

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 instruments

2.1 These two instruments make changes to the form of the ballot paper used at local government, and parish and community council elections in England and Wales, and also correct some minor issues.

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

3.1 None.

4. Legislative Context

4.1 The Local Elections (Principal Areas) (England and Wales) (Amendment) Rules 2015 amend the Local Elections (Principal Areas) (England and Wales) Rules 2006 (S.I. 2006/3304) which set out the rules governing the conduct of local government elections in England and Wales. The Local Elections (Parishes and Communities) (England and Wales) (Amendment) Rules 2015 amend the Local Elections (Parishes and Communities) (England and Wales) Rules 2006 (S.I. 2006/3305) which set out the rules governing the conduct of parish and community council elections in England and Wales. The two instruments make the same substantive changes to the form of the ballot paper at their respective elections. The changes are designed to make ballot papers at local government, and parish and community council elections in England and Wales clearer and more accessible for voters. The two instruments also correct some minor issues.

5. Territorial Extent and Application

5.1 The instruments extend to local government, and parish and community council elections in England and Wales.

6. European Convention on Human Rights

6.1 As the instruments are subject to the negative resolution procedure and do not amend primary legislation, no statement is required.

7. Policy background

7.1 The instruments make provision for changes to the form of the ballot paper and the directions for the printing of the ballot paper at local government, and parish and community council elections. In particular, they remove numbers against the names of candidates on the ballot papers. The instruments also make some minor corrections to the wording and statutory references on the Candidate's Consent to Nomination form. Also, the instrument concerning the conduct of parish and community council elections requires a parish or community council to notify the Returning Officer by 4pm (instead of noon) on the 19th working day prior to polling day if they want poll cards to be issued at the election, to bring this deadline into line with the deadline for the submission of candidates' nominations at parish and community council elections.

7.2 The changes in the instruments will apply to local government, and parish and community council elections falling on or after 7 May 2015.

7.3 The Government previously brought forward and made a group of instruments prior to the European Parliamentary election and other polls scheduled for 22 May 2014 which implemented the electoral administration and conduct provisions in the Electoral Registration and Administration Act 2013 at elections and referendums. Those instruments included provisions to improve ballot papers and other forms used by voters. They included the Local Elections (Principal Areas) (England and Wales) (Amendment) Rules 2014 (S.I 2014/494) and the Local Elections (Parishes and Communities) (England and Wales) (Amendment) Rules 2014 (S.I. 2014/492) which introduced new ballot papers and forms for use by voters at local government and parish and community council elections in England and Wales. More recently, the draft Representation of the People (Ballot Paper) Regulations 2015 which were laid before Parliament on 13 January 2015, and are subject to the affirmative resolution procedure, prescribe a new form of ballot paper for UK parliamentary elections. The changes in the above instruments are designed to ensure that the forms which voters use at elections are as clear and easy to use as possible to improve the voter's experience and encourage more effective engagement in the voting process. This follows from the proposals made by the Electoral Commission in its 2009 'Making Your Mark' Report which recommended that candidates' names should not be numbered on the ballot paper as numbers can be distracting and cause confusion for voters.

7.4 It was originally intended that the proposed changes to the ballot paper for local government, and parish and community council elections should include removing numbers against the names of candidates on the ballot papers in time for May 2014. This would have been consistent with the changes that had recently been made to the form of the ballot paper for other polls, as part of the process of making ballot papers clearer and more accessible for electors, for example, the European Parliamentary Elections (Amendment) Regulations 2013 (S.I. 2013/2876) removed numbers on the ballot paper at European Parliamentary elections.

7.5 However, the Association of Electoral Administrators (AEA) raised concerns that the proposal to remove numbers against candidates on the ballot paper would lead to more administrative complexity with the counting of votes in multi-member contests at local government and parish elections. Political parties also raised concerns around the removal of numbers on the ballot paper

at local and parish elections since the numbers on the ballot paper may be referred to by the political parties in their election material in order to help their supporters identify the candidates standing for the party on ballot papers.

7.6 In light of those concerns, the Government decided to retain numbers against candidates on the ballot paper for local government and parish and community council elections in 2014. The form of the ballot papers in the Local Elections (Principal Areas) (England and Wales) (Amendment) Rules 2014 and the Local Elections (Parishes and Communities) (England and Wales) (Amendment) Rules 2014 therefore provided for candidates' names to be numbered. The Government indicated that the matter would be given further consideration after the elections on 22 May 2014.

7.7 Following those elections, the Government has considered the matter further and now proposes to proceed with the earlier planned changes to the form of the ballot paper at local government, and parish and community council elections so that numbers are removed against the names of candidates on ballot papers at these polls. This will ensure there is consistency with the form of ballot papers used at elections and referendums, and that ballot papers are clear and accessible for voters.

8. Consultation outcome

8.1 The Electoral Commission has been consulted on these instruments as required by sections 7(1) and (2)(d) of the Political Parties, Elections and Referendums Act 2000. We have also shared details of the proposed changes with the AEA, Scope, RNIB, Mencap and other interested parties.

8.2 The Electoral Commission agrees with the proposed changes, and in particular the removal of numbers against the names of candidates on ballot papers. The Commission highlighted its earlier work to test election forms and notices with members of the public, and that based on the results of that user-testing the Commission recommended (in its 'Making Your Mark' Report) the removal of numbers beside candidate names on ballot papers. Its recommendation was based on the fact that its testing found that numbers on ballot papers can potentially confuse voters, especially new or inexperienced voters who do not know what the numbers mean or what they are for. The Commission's work took particular account of the varying levels of literacy in English among voters (whatever their background). The Commission has welcomed the Government's decision to accept its recommendation and legislate for the removal of numbers against the names of candidates on local government and parish and community council election ballot papers.

8.3 The AEA has indicated that it continues to have concerns about the proposal on the basis of the problems this would cause for counting ballot papers where there are multi-member vacancies at parish and community council elections.

8.4 The Government agrees with the Commission's assessment that numbers on ballot papers can potentially be confusing for voters and considers that removing them from ballot papers at local government and parish and community council elections will make these ballot papers clear and accessible for voters and will facilitate participation in these polls. The Government does not consider that administrative considerations should override the potential

benefits that the changes may bring for voters and wishes to proceed with the proposed changes.

9. Guidance

9.1 The Electoral Commission issues guidance to electoral administrators relating to the administration and conduct of local government, and parish and community council elections and will update the guidance as necessary in light of the changes set out in these instruments.

10. Impact

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

10.2 There is no impact on the public sector.

10.3 A separate full regulatory impact assessment has not been prepared for these instruments because no impact on the private, public or voluntary sectors is foreseen.

11. Regulating small business

11.1 The legislation does not apply to small business.

12. Monitoring & review

12.1 The Cabinet Office keeps all electoral legislation under review to ensure it continues to support electors' participation in elections and effective electoral administration. Furthermore, the Law Commission is undertaking a review of electoral legislation. It issued a scoping report on 11 December 2012 and published a consultation paper on reforming the law on 9 December 2014.

13. Contact

Peter Richardson at the Cabinet Office, tel 020 7271 6433: email: peter.richardson@cabinetoffice.gov.uk will be able to answer any queries regarding these instruments.