EXPLANATORY MEMORANDUM TO

THE NATIONAL ASSEMBLY FOR WALES (REPRESENTATION OF THE PEOPLE) (FRESH SIGNATURES FOR ABSENT VOTERS) ORDER 2013

2013 No. 1514

1. This explanatory memorandum has been prepared by the Wales Office and is laid before Parliament by Command of Her Majesty.

2. Purpose of the instrument

2.1 This instrument temporarily modifies the National Assembly for Wales (Representation of the People) Order 2007 to provide that absent voters at elections to the National Assembly for Wales who would otherwise be requested by the Electoral Registration Officer (ERO) to provide a fresh signature in January 2014 will instead be requested to do so between 1st August and 19th August 2013. This instrument replicates the amendments made to the Representation of the People (England and Wales) Regulations 2001 (SI 2001/341) ("the 2001 Regulations"), the Representation of the People (Scotland) Regulations 2001 (SI 2001/497) ("the 2001 Scotland Regulations") and the European Parliamentary Elections Regulations 2004 (SI 2004/293) ("the EPE Regulations") by the draft Elections (Fresh Signatures for Absent Voters) Regulations 2013 (SI 2013/XXX) ("the 2013 Regulations"). The instrument is in line with the transitional arrangements for the implementation of individual electoral registration (IER), and moves the timing of the signature refresh for absent voters scheduled for January 2014 in order to avoid it taking place at the same time as the annual household canvass that is to take place from late 2013 to early 2014 ("the 2013/14 household canvass").

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

3.1 None.

4. Legislative Context

4.1 The instrument is made in exercise of powers conferred by Section 13 of the Government of Wales Act 2006. The instrument amends provisions which concern the requirement for absent voters to provide a fresh signature at five yearly intervals for the purposes of elections to the National Assembly for Wales.

5. Territorial Extent and Application

5.1 Although of UK extent, this Order primarily applies to Wales as it provides for the conduct of elections to the National Assembly for Wales and matters relating thereto.

6. European Convention on Human Rights

6.1 The Secretary of State for Wales has made the following statement regarding Human Rights:

In my view the provisions of the National Assembly for Wales (Representation of the People) (Fresh Signatures for Absent Voters) Order 2013 are compatible with the Convention rights.

7. Policy background

7.1 The Electoral Administration Act 2006 included provisions to require absent voters to provide personal identifiers (date of birth and signature) when applying for a postal or proxy vote, and to require postal voters to provide these personal identifiers when voting by post at subsequent elections. Returning Officers will carry out checks on the personal identifiers provided at elections by postal voters to ensure they match with those originally provided by the postal voter and if they do not match the postal vote is deemed invalid. Under the 2007 Order, EROs are required by 31st January every year to write to absent voters whose signature is more than five years old to request a fresh signature to ensure that up to date signatures for absent voters at elections to the National Assembly for Wales are kept by EROs.

7.2 The Government considered whether in the transition to IER the signature refreshes for absent voters scheduled for January 2014 and January 2015 might be moved to take place at the same time as registration activity under the IER system to avoid absent voters being written to twice (i.e. once about the signature refresh and once about IER) within a relatively short space of time during the transition to IER. Cabinet Office discussed the matter with electoral stakeholders and the concern was expressed that combining an absent vote signature refresh with IER canvass activity would raise a real potential for confusing electors who, for example, could receive from their ERO a letter that confirms their registration and explains that no action is needed to remain registered and retain their absent vote but at the same time be asked to provide a fresh signature for absent voting purposes, where failure to respond means the loss of the absent vote.

7.3 Further, the Electoral Registration (Postponement of 2013 Annual Canvass) Order 2013 (SI 2013/794) provides that the 2013 annual household canvass period, which would otherwise have taken place between July and December 2013, will run from 1st October 2013 and result in a revised register published by 17th February 2014 in England, and by 10th March 2014 in Scotland and Wales. Concerns were also expressed by stakeholders about holding a signature refresh at the same time as the 2013/14 household canvass.

7.4 The Government has listened to the views expressed and agrees that the interests of voters would be better served by moving the signature refresh scheduled for January 2014 in Great Britain to take place before the 2013/14 household canvass.

7.5 The instrument gives EROs the flexibility to write out to absent voters in the period 1st to 19th August 2013 which will ensure that EROs request fresh signatures from absent voters before 1st October 2013, which is the earliest date that EROs can start the 2013/14 household canvass. The Government's approach will help to avoid any potential voter confusion in the transition to IER, and that signatures are updated for the absent voters concerned enabling

them to vote in the event of any election to the National Assembly for Wales in 2014.

8. Consultation outcome

8.1 The proposals set out in this instrument replicate those in the 2013 Regulations which were developed taking into account the views of the Electoral Commission, the Association of Electoral Administrators, the Scottish Assessors Association, and electoral administrators.

8.2 The Electoral Commission has been consulted in preparing the 2013 regulations and this instrument in accordance with section 7(1) and (2)(a) and (e) of the Political Parties, Elections and Referendums Act 2000. The Electoral Commission has indicated that it is content with the changes being made by these instruments.

9. Guidance

9.1 The Electoral Commission is responsible for issuing guidance to EROs and electoral administrators in the conduct of their duties, which will cover absent voting procedures. We therefore expect that the Electoral Commission will include information about these changes, and how they impact upon electoral law and the administration of signature refreshes in guidance to these persons. Cabinet Office and Wales Office officials will continue to ensure that the Electoral Commission and other key electoral stakeholders are aware of the changes being made by the 2013 Regulations and this instrument.

10. Impact

10.1 It is an existing function of EROs to undertake absent voter signature refreshes each year, and moving the timing of the refresh scheduled for January 2014 to August 2013 will have minimal impact on expenditure. There is no impact on business, charities or voluntary bodies.

10.2 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 This order makes a one-off change to the timing of the absent voter signature refresh in 2014 for elections to the National Assembly for Wales. No monitoring or review is deemed to be necessary.

13. Contact

Peter Newbitt at the Wales Office, tel: 029 2092 4205 or email: peter.newbitt@walesoffice.gsi.gov.uk can answer any queries regarding the instrument.