EXPLANATORY MEMORANDUM TO

NORTHAMPTONSHIRE (CHANGES TO YEARS OF ELECTIONS) ORDER 2018

2018 No. 1324

1. Introduction

1.1 This explanatory memorandum has been prepared by the Ministry of Housing, Communities and Local Government and is laid before Parliament by Command of Her Majesty.

2. Purpose of the instrument

2.1 This instrument changes to 2020 the year of the scheduled 2019 elections of district and parish councillors in the local government areas of Corby, Daventry, East Northamptonshire, Kettering, Northampton, South Northamptonshire and Wellingborough.

3. Matters of special interest to Parliament

Matters of special interest to the Joint Committee on Statutory Instruments

3.1 None.

Matters relevant to Standing Orders Nos. 83P and 83T of the Standing Orders of the House of Commons relating to Public Business (English Votes for English Laws)

3.2 As the instrument is subject to negative resolution procedure there are no matters relevant to Standing Orders Nos. 83P and 83T of the Standing Orders of the House of Commons relating to Public Business at this stage.

4. Extent and Territorial Application

4.1 The territorial extent of this instrument is England and Wales.

4.2 The territorial application of this instrument is England.

5. European Convention on Human Rights

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

6. Legislative Context

6.1 Part 4 of the Local Government Act 2000 concerns elections of councillors to local authorities in England and Wales. Section 85 provides for three options for schemes of ordinary elections of councillors. The options are: (i) elections of all councillors in a given year and every fourth year thereafter ("whole council elections"); (ii) elections in a given year and every second year thereafter of half of the councillors ("elections by halves"); and (iii) elections in a given year and every year thereafter (except every fourth year) of one third of the councillors ("elections by thirds"). Section 87 confers a power on the Secretary of State to change by order the years in which the ordinary elections of councillors of a specified local authority are to be held, but which does not change the scheme of elections. An order may include provision to secure the

retirement of councillors at different times from those at which they would otherwise have retired, but may not change the scheme of elections of the authority.

6.2 Part 1 of the Local Government and Public Involvement in Health Act 2007 ("the 2007 Act") concerns structural and boundary change of local government areas in England. Chapter 1 concerns structural change from two tiers of local government in an area to a single tier (from a county council and district councils for an area to a single unitary authority – commonly known as "unitarisation"). Section 2 provides for the Secretary of State to invite any principal authority to submit a proposal for a single tier of local government. Section 7 confers a power on the Secretary of State to implement a proposal for unitarisation of an area which has been made by one or more of the principal councils in the area. An order under section 7 is subject to the affirmative resolution procedure in both Houses of Parliament. Such a proposal has been made by a number of the principal authorities in the non-metropolitan county of Northamptonshire.[1]

7. Policy background

What is being done and why?

7.1 The Government made a manifesto commitment to support those authorities that wish to combine to serve their communities better, and the Ministry of Housing, Communities and Local Government is committed to considering locally led proposals for unitarisation where a proposal is made.

7.2 An independent inspection report has found that Northamptonshire County Council has failed to meet what is known as its 'Best Value' duty – that is, it has failed to ensure that public funds have been spent responsibly and has therefore not been able to spend within its budget. The inspection report made a number of recommendations, including that local government in Northamptonshire should be reorganised into unitary structures and the Government accepted the report's recommendations in full. An invitation[2] to submit proposals for the restructuring of local government was subsequently issued which specified what the proposals could include, as well as guidance on what they should seek to achieve.

7.3 The Secretary of State is considering the proposal for local government restructuring submitted by seven of the eight principal Northamptonshire councils in August 2018 and has announced the launch of a statutory consultation on the proposal on the 29 November 2018. If implemented, the councils' proposal indicates that this would deliver more effective and sustainable local government and generate savings for the public finances.

7.4 The proposal submitted to the Secretary of State is for two new unitary authorities to replace the existing two-tier structure in Northamptonshire from April 2020. Should this proposal be implemented, then the elections scheduled for May 2019 would elect councillors for a single year.

7.5 The Secretary of State has not yet made a decision on whether or not to implement the proposal submitted to him by the Northamptonshire councils. On 29 November 2018

[1] The proposal was made on 31 August 2018 by Daventry District Council, East Northamptonshire District Council, Kettering Borough Council, Northampton Borough Council, Northamptonshire County Council, South Northamptonshire District Council and Wellingborough Borough Council, acting jointly.
[2] The invitation was issued on 27 March 2018 to Northamptonshire County Council and the seven district and borough councils.

he announced the start of a statutory consultation that will run until 25 January 2019, the responses to which will help inform his decision. This Order is made without prejudice to any subsequent decision on the councils' proposal.

7.6 All eight principal councils in Northamptonshire have requested that the May 2019 elections to the district and borough councils of Corby, Daventry, East Northamptonshire, Kettering, Northampton, South Northamptonshire and Wellingborough be postponed until May 2020. This would be to avoid, should the Secretary of State decide to restructure local government in Northamptonshire, and Parliament agree the necessary secondary legislation, significant expenditure on elections of councillors for only one year. Such elections would not represent an efficient use of public money and also risk causing confusion for local voters.

7.7 The principal councils have made representations seeking that the parish council elections in Northamptonshire scheduled for 2019 also be postponed until 2020 so that they can continue to be held concurrently with district council elections. This would prevent the additional expenditure that would be caused by holding standalone parish council elections.

7.8 In deciding to make such a postponement, the Government has had regard both to the importance of local elections as the foundation of our local democracy and ensuring the accountability of councils, and to the risks of continuing with the May 2019 elections in Northamptonshire given the local circumstances. Elections in such circumstances risk confusing voters and would involve significant costs that would be hard to justify. The councils have also stressed the importance of there being certainty by early December 2018 about the May 2019 elections.

7.9 This Order defers the elections in the seven district councils and their parish councils by one year to the ordinary day of election of councillors in May 2020. The elections will take place on that date should the proposal for structural change not be implemented. If the Secretary of State decides to implement the proposal he has received from the Northamptonshire councils, and Parliament approves any subsequent Structural Change Order under section 7 of the 2007 Act, the district and borough councils would be abolished before the May 2020 election day and therefore those elections would not proceed. Should it be decided not to implement the councils' proposal, then those postponed district and parish council elections will take place in 2020 and then revert to the current electoral cycle.

7.10 The scheme of elections in the district and borough councils is not affected by this Order and those councils that elect by thirds or have all out elections will continue to do so.

8. European Union (Withdrawal) Act/Withdrawal of the United Kingdom from the European Union

8.1 This instrument does not relate to withdrawal from the European Union.

9. Consolidation

9.1 None.

10. Consultation outcome

10.1 There is no statutory requirement for consultation and no consultation has been carried out on this Order. However, this Order is being made at the request of the principal

councils in Northamptonshire, who had previously sought the views of the parish councils in their area. The majority of the parish councils that responded to the principal councils were in favour of keeping parish council elections aligned with district council elections. Others felt that as the proposal for reorganisation does not affect parish councils, their elections should therefore not be affected. However, this would result in significant public expenditure to hold standalone parish elections.

11. Guidance

11.1 No guidance is necessary to accompany the Order; the councils concerned have been notified of its making.

12. Impact

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

12.2 The impact on the public sector is potentially positive as it will save the costs of holding elections for new councillors who could be members of the district council for only one year and means that town and parish council elections continue to be held concurrently.

12.3 An Impact Assessment has not been prepared for this instrument because there is no impact on business, charities or voluntary bodies.

13. Regulating small business

13.1 The legislation does not apply to activities that are undertaken by small businesses.

14. Monitoring & review

14.1 There is no plan to monitor or review this legislation as its purpose is limited to the postponement of elections in a single year.

15. Contact

15.1 Craig Bowdery at the Ministry of Housing, Communities and Local Government Telephone: 0303 444 6810 or email: craig.bowdery@communities.gov.uk can be contacted with any queries regarding the instrument.

15.2 Paul Rowsell, Deputy Director for Governance Reform and Democracy, at the Ministry of Housing, Communities and Local Government can confirm that this Explanatory Memorandum meets the required standard.

15.3 Rishi Sunak MP, Minister for Local Government at the Ministry of Housing, Communities and Local Government can confirm that this Explanatory Memorandum meets the required standard.