EXPLANATORY MEMORANDUM TO

THE PARLIAMENTARY ELECTIONS AND RECALL PETITION (WELSH FORMS) (AMENDMENT) ORDER 2024

2024 No. 95

1. Introduction

1.1 This explanatory memorandum has been prepared by the Department for Levelling Up, Housing and Communities and is laid before Parliament by Command of His Majesty.

1.2 This memorandum contains information for the Joint Committee on Statutory Instruments

2. Declaration

2.1 Simon Hoare MP, Parliamentary Under Secretary of State at the Department for Levelling Up, Housing and Communities confirms that this Explanatory Memorandum meets the required standard.

2.2 Becca Crosier, Deputy Director for the Elections Division, at the Department for Levelling Up, Housing and Communities confirms that this Explanatory Memorandum meets the required standard.

3. Contact

3.1 Claerwyn Hamilton-Wilkes at the Department for Levelling Up, Housing and Communities email: Claerwyn.hamilton-wilkes@levellingup.gov.uk can be contacted with any queries regarding the instrument.

Part One: Explanation, and context, of the Instrument

4. Overview of the Instrument

What does the legislation do?

4.1 The purpose of this instrument is to update the Welsh language versions of certain prescribed forms and forms of words, to be used at UK Parliamentary elections and recall of MP petitions in Wales. These updates will bring the forms and forms of words in line with recent legislative changes made to the equivalent English language versions.

Where does the legislation extend to, and apply?

4.2 The extent of this instrument (that is, the jurisdiction(s) which the instrument forms part of the law of) is England and Wales.

4.3 The territorial application of this instrument (that is, where the instrument produces a practical effect) is Wales.

5. Policy Context

What is being done and why?

5.1 The Representation of the People (Postal and Proxy Voting etc.) (Amendment) Regulations 2023 (S.I. 2023/1147) ("the 2023 Regulations") made amendments to

rules governing the administration and conduct of UK Parliamentary elections and other elections, referendums and recall petitions.

5.2 The 2023 Regulations contained an error relating to transitional provisions regarding the information shown on postal poll cards and proxy postal poll cards for certain elections and referendums, as well as the equivalent petition notices for certain recall petitions.

5.3 The error resulted in a gap in transitional provisions for any polls for which notice is given on or after 31 January 2024, and the day of poll is on or before 1 May 2024, as well as an equivalent gap for certain recall petitions triggered and commenced during the same period.

5.4 The Representation of the People (Postal and Proxy Voting etc.) (Amendment) Regulations 2024 correct the error in the 2023 Regulations by making additional transitional provision for the relevant postal poll cards and proxy postal poll cards (and equivalent recall petition notices) during the intervening period.

5.5 The amendments to rules governing the administration and conduct of UK Parliamentary elections and recall petitions made by the 2023 Regulations required amendments to the Welsh language versions of the updated forms and forms of words.

5.6 These amendments were made by the Parliamentary Elections and Recall Petition (Welsh Form) (Amendment) Order 2023 (S.I. 2023/1137).

5.7 The correction in the transitional provisions set out in paragraph 5.4 requires the forms of words on the postal poll cards and proxy postal poll cards to be brought up to date to reflect the changes in transitional arrangements. This instrument provides Welsh language versions of these updated forms of words.

5.8 The changes ensure the correct description of criminal offences under section 61(3B) of the Representation of the People Act 1983 (c. 2) relating to voting as a proxy are included on postal poll cards and proxy postal poll cards at UK Parliamentary elections in Wales, where the notice of election is published on or after 31 January 2024 and the date of poll is on or before 1 May 2024. Equivalent changes are made to the equivalent notices at recall petitions in Wales held in this period.

6. Legislative and Legal Context

How has the law changed?

6.1 This instrument corrects errors in Schedule 1 to the Parliamentary Elections and Recall Petition (Welsh Forms) (Amendment) Order 2023 (S.I. 2023/1137). It amends the transitional provisions in that Schedule to provide for additional modifications of the prescribed forms of the postal poll card and proxy postal poll card to be used for UK Parliamentary elections in Wales for which (a) the notice of election is published on or after 31st January 2024 and (b) the date of poll is on or before 1st May 2024.

6.2 Additional modifications are also added for the equivalent prescribed forms of the postal signing and proxy postal signing petition notices to be used for any recall petitions held in Wales under the Recall of MPs Act 2015 (c. 25) for which (a) the Speaker's notice is given in accordance with section 5(1) of that Act on or after 31st January 2024, and (b) the date for the beginning of the signing period for that petition is on or before 1st May 2024.

6.3 The modifications provide for the correct description of criminal offences under section 61(3B) of the Representation of the People Act 1983 (and equivalent legislation) to be included on those poll cards and notices.

Why was this approach taken to change the law?

6.4 This is the only possible approach to make the necessary changes to the existing transitional provision in the Parliamentary Elections and Recall Petition (Welsh Forms) (Amendment) Order 2023.

7. Consultation

Summary of consultation outcome and methodology

7.1 This instrument updates the transitional provisions relating to prescribed Welsh forms which are the direct equivalent of legislative changes made by the Representation of the People (Postal and Proxy Voting etc.) (Amendment) Regulations 2024. The Electoral Commission were previously consulted on those legislative changes and therefore a separate consultation for this instrument was not required.

8. Applicable Guidance

8.1 The Government is not providing publicly available guidance on the changes being made by the instrument. The Electoral Commission issues guidance to electoral administrators relating to the administration and conduct of elections and will update the guidance as necessary in advance of future polls in light of the changes set out in this instrument.

Part Two: Impact and the Better Regulation Framework

9. Impact Assessment

9.1 A full Impact Assessment has not been prepared for this instrument because no, or no significant, impact on the private, voluntary or public sectors is foreseen.

Impact on businesses, charities and voluntary bodies

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

9.3 The legislation does not impact small or micro businesses.

9.4 There is no, or no significant, impact on the public sector.

10. Monitoring and review

What is the approach to monitoring and reviewing this legislation?

10.1 The approach to monitoring of this legislation is that the Electoral Commission will produce reports on the administration and conduct of elections and the Department for Levelling Up, Housing and Communities will consider any findings or recommendations made by the Electoral Commission about the changes in this instrument that will apply at those polls.

10.2 The provision made by this instrument is part of the wider implementation of the Elections Act 2022 (c. 37). In accordance with section 62 of the Elections Act 2022, the Secretary of State must prepare and publish a report on the operation of the Act, as well as lay a copy of the report before Parliament, between 4 and 5 years after the day on which the Act was passed.

Part Three: Statements and Matters of Particular Interest to Parliament

11. Matters of special interest to Parliament

11.1 This instrument corrects errors which are similar to those identified by the Joint Committee on Statutory Instruments in respect of the Local Government and Greater London Authority Elections (Miscellaneous Amendments) Regulations 2023 (S.I. 2023/1066) in the Committee's Fifth Report of Session 2023-24.

12. European Convention on Human Rights

As the instrument is not subject to parliamentary procedure (other than a requirement to lay the instrument before each House after making), no statement is required.

13. The Relevant European Union Acts

13.1 This instrument is not made under the European Union (Withdrawal) Act 2018, the European Union (Future Relationship) Act 2020 or the Retained EU Law (Revocation and Reform) Act 2023 ("relevant European Union Acts").