EXPLANATORY MEMORANDUM TO

THE POLICE AND CRIME COMMISSIONER ELECTIONS ORDER 2015

2015 No. 665

1. 1.1 This explanatory memorandum has been prepared by the Cabinet Office and is laid before Parliament by Command of Her Majesty.

2. Purpose of the instrument

2.1 This Order is made under section 58 of the Police Reform and Social Responsibility Act 2011. The Order applies amendments which are to be made to paragraph 22 of Schedule 2 to the Representation of the People (Combination of Polls) (England and Wales) Regulations 2004 ("the Combination of Polls Regulations 2004") by the Representation of the People (Combination of Polls)(England and Wales) (Amendment) Regulations 2015 ("the Combination of Polls Regulations 2015") to police and crime commissioner ("PCC") elections.

2.2 The effect of the Police and Crime Commissioners Elections Order 2015 and the Combination of Polls Regulations 2015 will be to remove the requirement that where a PCC election is combined with a UK Parliamentary election, the Returning Officer must verify the ballot paper accounts of all ballot papers used at the polls, including the PCC election ballot papers, before the count of the ballot papers used at the UK Parliamentary election may begin. As a result Returning Officers will be permitted (but not required) to begin counting the UK Parliamentary ballot papers before the verification of all the ballot papers in the PCC election and in all the other polls is complete.

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

3.1 None.

4. Legislative Background

4.1 The Combination of Polls Regulations 2015 amend paragraph 22 of Schedule 2 to the Combination of Polls Regulations 2004, which contain modifications to the parliamentary elections rules that have effect when the poll at a parliamentary election is combined with a poll at another type of election or referendum, which may include a PCC election.

4.2 The amendments to Schedule 2 of the Combination of Polls Regulations 2004 by the Combination of Polls Regulations 2015 affect the combination of parliamentary elections with PCC elections as well as the combination of parliamentary elections with other polls. The power in section 58 of the Police and Social Responsibility Act 2011 to make provision about the combination of PCC elections with other polls is an order making power, whereas the power originally relied upon to make the Representation of the People (Combination of Polls) (England and Wales) 2004 (S.I. 2004/294) is a regulation making power, as are the powers to make provision about the combination of polls under sections 9HE and 9MG of the Local Government Act 2000. The PCC Order is

therefore necessary because the Combination of Polls Regulations 2015 alone would not be able to apply to PCC elections (because there is no vires for them to do so). The two instruments therefore need to be made simultaneously.

5. Territorial Extent and Application

5.1 This instrument extends to England and Wales.

6. European Convention on Human Rights

6.1 Sam Gyimah, Minister for the Constitution, Cabinet Office, has made the following statement regarding Human Rights:

"In my view the Police and Crime Commissioner Elections Order 2015 is compatible with the Convention rights."

7. Policy background

7.1 In many areas in England on 7 May 2015, UK Parliamentary elections will be combined with parish council elections and / or scheduled local elections. The Combination of Polls Regulations 2015 are intended to provide Returning Officers with greater flexibility in the administration of combined UK Parliamentary elections, by making the provisions in relation to when the count can begin mirror more closely those for standalone UK Parliamentary elections. The PCC Elections Order 2015 applies those changes to PCC elections where they are combined with parliamentary elections. This will potentially allow Returning Officers to deploy electoral staff more efficiently and may therefore permit the UK Parliamentary election result to be announced sooner.

7.2 Cabinet Office's planning for the General Election in 2015 has involved discussion with representatives on its Elections Policy and Co-ordination Group (UK government officials, the Electoral Commission, stakeholders (AEA, SOLACE) and Regional Returning Officers) about the effect of combined polls on the administration of the elections.

7.3 The proposed changes will address concerns by allowing Returning Officers greater flexibility in how they carry out the verification and count for the combined elections.

8. Consultation outcome

8.1 The Electoral Commission has been consulted on the Order in accordance with section 7(2)(e) of the Political Parties, Elections and Referendums Act 2000 (c.41). The Association of Electoral Administrators (AEA), and the Society of Local Chief Executives (SOLACE) have also been consulted on the Order.

8.2 The Electoral Commission, AEA and SOLACE confirmed that they support the changes.

9. Guidance

9.1 The Electoral Commission issues guidance to Returning Officers on the conduct of elections. They have confirmed that they will amend their guidance to reflect the changes.

10. Impact

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

10.2 The impact on the public sector is positive.

10.3 An Impact Assessment has not been prepared for this instrument as it has not appreciable impact on the public sector and no impact on business, charities or voluntary bodies.

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.

12.2 In addition, under Section 6 of the Political Parties, Elections and Referendums Act 2000, the Electoral Commission has a statutory function to review matters relating to elections.

13. Contact

Fiona Willan at the Cabinet Office, tel 020 7271 6442: email: fiona.willan@cabinetoffice.gov.uk can answer any queries regarding the instrument.