EXPLANATORY MEMORANDUM TO

THE STANDARDS BOARD FOR ENGLAND (ABOLITION) ORDER 2012

2012 No. 668

1. This explanatory memorandum has been prepared by the Department for Communities and Local Government and is laid before Parliament by Command of Her Majesty.

2. Purpose of the instrument

2.1 The Order makes provision in connection with the abolition of the Standards Board for England, transferring property, rights and liabilities of the Board to the Secretary of State. It also terminates the contracts of employment of employees and the terms of appointment of Board members, and enables the Secretary of State to stand in place of the Standards Board for England in any proceedings before the First-Tier Tribunal.

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

3.1 None

4. Legislative Context

4.1 Schedule 4 to the Localism Act 2011 makes provision for abolition of the Standards Board for England ('the Board') - see in particular paragraph 17 of Part 1 of Schedule 4 to the Act. This order is made to accompany the coming into force of that and other provisions in Schedule 4, to deal with the property, rights and liabilities of the Board.

4.2 This is the first exercise of the power conferred on the Secretary of State by paragraph 57 of Schedule 4 to the Localism Act 2011.

5. Territorial Extent and Application

5.1 This instrument applies to England and Wales.

6. European Convention on Human Rights

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

7. Policy background

7.1 The Standards Board for England, was a non-departmental public body established by the Local Government Act 2000. It was the body responsible for investigating allegations of misconduct by local authority members and,

following changes made to the functions of the Board by the Local Government and Public Involvement in Health Act 2007, for regulating the local authority standards regime. The Localism Act 2011 ('the Localism Act') provided for its abolition.

7.2 The Government's Coalition Agreement 'Our Programme for Government' contained the commitment that 'We will abolish the Standards Board regime'.

7.3 The Government considers that the Standards Board regime, consisting of a centrally prescribed model code of conduct for local authority members, standards committees with the power to suspend a local authority member if they determined there has been misconduct, and regulated by a central non departmental public body, the Standards Board for England, was inconsistent with the principles of localism, where decisions and responsibility should lie at the lowest appropriate level. Moreover, the Government recognised that the current regime was a vehicle for vexatious or politically motivated complaints, and hence was poor value for money and potentially damaging to good local governance.

7.4 Accordingly, the Government has legislated in Chapter 7 of Part 1 of the Localism Act to abolish the Standards Board regime in its entirety, including abolishing the Standards Board for England. On 31 January, by way of the Localism Act 2011 (Commencement No. 2 and Transitional and Saving Provision) Order 2012, S.I. 2012/57, provisions were brought into force to end certain statutory functions of the Standards Board for England, including their power to investigate allegations of misconduct by local authority members. The Localism Act 2011 (Commencement No. 4 and Transitional, Transitory and Saving Provisions) Order 2012 brings into force on 1st April the remaining provisions in the Localism Act to abolish the Standards Board. The Order makes provision in connection with that abolition.

7.5 It is intended through a further Commencement Order to bring into force the new arrangements for local authority standards on 1st July 2012. These include a requirement for councils to adopt a code of conduct for members that is compliant with the 'Nolan' principles of standards in public life, the involvement of an independent person providing assurance that the new arrangements will not be abused and new requirements for members to disclose and register pecuniary interests, it being a criminal offence if they deliberately fail to do so.

7.6 Hence from 1 July there will be a new localist regime consisting of a code of conduct, local arrangements for complaint handling and criminal sanction for failing without good reason to disclose and register pecuniary interests. The Government believes that this localist regime will secure high standards of conduct for local government members, not least by ensuring that full responsibility for standards is owned and applied at the local level, and that there is no longer a bureaucratic structure which tends to support vexatious or politically motivated complaints.

7.7 With the Standards Board for England abolished, responsibility for ensuring that the view of the Standards Board, or the view of an Ethical Standards Officer of the Board is represented at proceedings in the First-tier Tribunal relating to a referral made by an Ethical Standards Officer, is transferred to the Secretary of State.

8. Consultation outcome

8.1 The policy proposal to abolish the Standards Board for England was announced in the Coalition Agreement 'Our Programme for Government. As a Coalition Agreement commitment, no consultation was undertaken. However the policy received scrutiny by debate during passage of the Localism Bill through both Houses of Parliament.

9. Guidance

9.1 This order is self explanatory and there is no intention to issue guidance.

10. Impact

10.1 A Regulatory Impact Assessment has not been prepared for this instrument as it has 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 Department for Communities and Local Government will undertake a post implementation review of the policy to abolish the regime 3-5 years after policy implementation. The review is intended to be a proportionate check that legislation, including the abolition of the Board and the establishment of new, local arrangements for local authority standards, is operating as expected.

12.2 Monitoring arrangements will include a survey, by the Department, of local authorities to ascertain the arrangements in place to uphold standards of councillors, and a survey, by the Department, of councillors and citizens to understand their attitudes towards the new arrangements for upholding standards, and their perceptions of standards of councillors.

13. Contact

Steve McAllister at the Department for Communities and Local Government Tel: 0303 44 42582 or email: stephen.mcallister@communities.gsi.gov.uk can answer any queries regarding the instrument.