

**EXPLANATORY MEMORANDUM TO**  
**THE POLICE AND CRIME PANELS (NOMINATIONS, APPOINTMENTS**  
**AND NOTIFICATIONS) REGULATIONS 2012**

**2012 No. 1433**

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

2. **Purpose of the instrument**

2.1 A Police and Crime Panel is to be established in each police area in England and Wales outside London, with the function of scrutinising the decisions and actions of the Police and Crime Commissioner. These Regulations make procedural provision in relation to the appointment of members of Police and Crime Panels.

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

3.1 None.

4. **Legislative Context**

4.1 Section 1 of the Police Reform and Social Responsibility Act 2011 (“the 2011 Act”) provides for the establishment of a directly elected Police and Crime Commissioner for every police area in England and Wales outside London. The Police and Crime Commissioner is responsible for securing the maintenance of an efficient and effective police force and holding the Chief Constable to account for the exercise of his (the Chief Constable’s) functions. Section 28 of the 2011 Act provides for the establishment of a Police and Crime Panel for each police area with a Police and Crime Commissioner. The Police and Crime Panel is responsible for scrutinising the actions and decisions of the Police and Crime Commissioner.

4.2 Schedule 6 to the 2011 Act makes provision in relation to the establishment and maintenance of panels. In England the local authorities covered by the police force area (“the relevant local authorities”) must make arrangements for the formation and maintenance of the Police and Crime Panel (“panel arrangements”). Each relevant local authority must nominate and appoint at least one of its members to be a member of the Police and Crime Panel. If a relevant local authority fails to exercise its powers to nominate or appoint, the Secretary of State must nominate and appoint the appropriate number of members. If no relevant local authority exercises the powers of nomination and appointment, the Secretary of State may assume responsibility for the establishment and maintenance of the Police and Crime Panel.

4.3 In Wales, the Secretary of State is responsible for establishing and maintaining Police and Crime Panels from the outset. This is because the National Assembly for Wales declined to consent to the inclusion in the Act of provision for Police and Crime Panels to be established and maintained by the relevant local authorities. The Secretary of State invites each relevant local authority to nominate at least one of its members for appointment to the Police and Crime Panel, and is required to appoint the nominated persons. In the event that a relevant local authority fails to exercise the power of nomination, the Secretary of State must nominate and appoint the required number of local authority members.

4.4 In England and Wales, the local authority members of the Police and Crime Panel must co-opt two additional members who are not members of any local authority in the police area. In addition they may resolve, with the agreement of the Secretary of State, that further members are co-opted who may include members of any local authority in the police area, but the total membership of the Police and Crime Panel does not exceed twenty.

4.5 Schedule 6 to the 2011 Act imposes duties on relevant local authorities, Police and Crime Panels and the Secretary of State in relation to the political and geographical balance of the Police and Crime Panel, and the appointment of members with the necessary skills, knowledge and experience (“the balanced appointment objective”).

## **5. Territorial Extent and Application**

5.1 This instrument applies to England and Wales.

## **6. European Convention on Human Rights**

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

## **7. Policy background**

- What is being done and why

7.1 The essential policy aim behind these Regulations is to ensure that by 22 November 2012, when the first Police and Crime Commissioners take office, a Police and Crime Panel has been established in each relevant police area with a membership which represents all parts of the area, reflects the political balance across the local authorities in the area and has the necessary skills, knowledge and experience. Further, the Regulations are intended to ensure that appropriate nominations and appointments are made expeditiously when members leave Police and Crime Panels, for example as a consequence of local government elections.

7.2 The Regulations require the relevant local authorities to notify the Secretary of State, by specified dates, of any failure to comply with the duty to make panel arrangements and to nominate and appoint councillors. This is to

assist the Secretary of State in deciding whether it is necessary for her to exercise her own powers of nomination and appointment.

7.3 The Regulations require the Police and Crime Panel, when asking the Secretary of State to agree to a resolution for the co-option of additional local authority members, to explain why the Panel has concluded that co-opting the additional members would further the balanced appointment objective. The Police and Crime Panel is also required to notify the Secretary of State of the identity of the additional co-opted local authority members and to explain why the Panel has concluded that co-opting those individuals would further the balanced appointment objective. The Regulations provide for any decision to co-opt an additional local authority member to be a unanimous decision of the Police and Crime Panel, to ensure that the appointment benefits the Panel as a whole.

- Consolidation

7.4 This order does not amend any existing instrument.

## **8. Consultation outcome**

8.1 There has been detailed discussion and consultation with officials in Department for Communities and Local Government and Local Government Association in the drawing up of these regulations given the interface with local government. Further consultation has taken place with a broader range of partners who are working with the Home Office to develop checks and balances on Police and Crime Commissioners. Consultation with the Wales Office and Welsh Government has ensured that the differences in local authority landscape in Wales are accounted for.

## **9. Guidance**

9.1 We will be providing guidance to local authorities, although this will not go beyond explaining the regulation in plain English.

## **10. Impact**

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

10.2 The impact on the public sector is minimal. The Regulations impose duties on local authorities in England and on Police and Crime Panels. However, the core duties in relation to the nomination and appointment of members of Police and Crime Panels are imposed by the 2011 Act. The additional provision made by these Regulations is limited by comparison and involves the setting of deadlines for compliance with duties imposed by the 2011 Act and the giving of notice that duties have been complied with. The requirements are regarded as the minimum necessary to ensure the timely appointment of Police and Crime Panels.

10.3 An Impact Assessment has not been prepared for this instrument as there is no impact on the private or voluntary sectors.

**11. Regulating small business**

11.1 The legislation does not apply to small business.

**12. Monitoring & review**

12.1 No formal method of monitoring and review is proposed. The Home Office will be monitoring whether notification is given in accordance with the Regulations in any event, in order to establish whether the powers of the Secretary of State are engaged. It is expected that local authorities and Police and Crime Panels will communicate to the Home Office any difficulties with the operation of the Regulations in practice.

**13. Contact**

Jonathan Bugg at the Home Office Tel: 0207 035 4871 or email:  
Jonathan.Bugg@homeoffice.gsi.gov.uk can answer any queries regarding the instrument.