

EXPLANATORY MEMORANDUM TO
THE LOCAL GOVERNMENT OFFICERS (POLITICAL RESTRICTIONS)
(AMENDMENT) (ENGLAND) REGULATIONS 2012

2012 No. 1772

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 Regulations amend the Local Government (Political Restrictions) Regulations 1990 to limit the restrictions which apply to the Deputy Mayor for Policing and Crime.
3. **Matters of special interest to the Joint Committee on Statutory Instruments**
 - 3.1 None.
4. **Legislative Context**
 - 4.1 Section 1 of the Local Government and Housing Act 1989 (“the 1989 Act”) disqualifies a person from becoming (whether by election or otherwise) or remaining a member of a local authority if he or she holds a “politically restricted” post under that local authority or any other local authority in Great Britain. Section 2 sets out what a politically restricted post is, including the authority’s head of paid service.
 - 4.2 Section 1 of the 1989 Act also provides that the terms of appointment or conditions of employment of every person holding a politically restricted post under a local authority (including persons appointed to such posts before the coming into force of this section) shall be deemed to incorporate such requirements for restricting his political activities as may be prescribed for the purposes of this subsection by regulations made by the Secretary of State - see the Local Government Officers (Political Restrictions) Regulations 1990 (S.I. 1990/851).
 - 4.3 Section 3 of the Police Reform and Social Responsibility Act 2011 provides for the establishment of the Mayor's Office for Policing and Crime. It provides that the person who is Mayor of London for the time being is to be the occupant for the time being of the Mayor's Office for Policing and Crime.
 - 4.4 Section 19 of the 2011 Act provides for the appointment of, and delegation of functions to, a Deputy Mayor for Policing and Crime. Section 1(9) of the 1989 Act (inserted by paragraph 200 of Schedule 16 to the Police Reform and Social Responsibility Act 2011) provides that any reference to a

politically restricted post includes a reference to every member of staff of an elected police body, except for a deputy police and crime commissioner (see section 18 of the 2011 Act) . The Deputy Mayor for Policing and Crime is a member of staff of the Mayor's Office for Policing and Crime which is the elected police body for the Metropolitan police district (see section 102 of the 2011 Act).

5. Territorial Extent and Application

5.1 This instrument applies to England.

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

- What is being done and why

7.1 We are removing some of the political restrictions on the post of Deputy Mayor for Policing and Crime in London for the following reasons:

- The placing of political restrictions on local government posts through the 1990 Regulations is intended to ensure the impartiality of local authority officers; however, these restrictions are much less suitable for political appointments or deputies of elected representatives (as by definition, such posts are inherently more political in nature). This argument applies in particular to personal appointments made by the Mayor of London given the size of his individual democratic mandate
- If left unchanged the 1990 Regulations would restrict the Deputy Mayor for Policing and Crime's ability to pronounce verbally or in writing on political matters, which would stop the Deputy Mayor performing his role effectively as one London's leaders, responsible for safety of the capital and its citizens.
- These restrictions are also unnecessary because the Deputy Mayor is not a local government officer serving a multi-party council - rather he is a key mayoral appointee, held to account by the elected London Assembly.
- Disapplying these restrictions will also mean that the rules for the Deputy Mayor for Policing and Crime will be much more closely aligned with those for Deputy Police and Crime Commissioners outside of London.
- These restrictions would only apply to the postholder if they are not a member of the London Assembly; a fact which, if left unchanged,

restricts who the Mayor is able to appoint to this post if they are to be able to perform the role fully and effectively

7.2 We are removing those restrictions that will prevent the postholder from performing the substantial and high-profile role of Deputy Mayor for Policing and Crime effectively. As such we are retaining the prohibition on the postholder standing for election to various legislative bodies or acting as an election agent, whilst removing the following prohibitions: being an officer or committee member of a political party; canvassing on behalf of a political party; and speaking or writing with the intention of furthering the fortunes of a particular political party. The prohibition on serving as a member of a local authority, imposed by section 1 of the 1989 Act itself, remains in place.

- Consolidation

7.3 This is the first time the Government has amended the Local Government (Political Restrictions) Regulations 1990 and there are no plans to consolidate the Regulations.

8. Consultation outcome

8.1 The Home Secretary, the Mayor for London and the Chief Executive of the Mayor's Office for Policing and Crime have been consulted on the changes and are in support of this statutory instrument.

9. Guidance

9.1 As this legislation only affects one statutory post there will be no guidance issued to accompany this change

10. Impact

10.1 The impact on business, charities or voluntary bodies is nil.

10.2 The impact on the public sector with the exception of the operation of the Mayor's Office for Policing and Crime is nil.

10.3 An Impact Assessment has not been prepared for this instrument.

11. Regulating small business

11.1 The legislation does not apply to small business.

12. Monitoring & review

12.1 The scope of the legislation is restricted to one post and is being enacted for the reasons set out at paragraph 7.1 which relate directly to the nature of the post itself. As such the legislation will not be monitored or reviewed.

13. Contact

Catherine Doherty at the Department for Communities and Local Government
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answer any queries regarding the instrument.

