

## **EXPLANATORY MEMORANDUM TO**

### **THE SCHOOL ORGANISATION (ESTABLISHMENT AND DISCONTINUANCE OF SCHOOLS) (ENGLAND) REGULATIONS 2007**

**2007 No. 1288**

### **THE SCHOOL ORGANISATION (PRESCRIBED ALTERATIONS TO MAINTAINED SCHOOLS) (ENGLAND) REGULATIONS 2007**

**2007 No. 1289**

### **THE SCHOOL ORGANISATION (TRANSITIONAL PROVISIONS) (ENGLAND) REGULATIONS 2007**

**2007 No. 1355**

1. This explanatory memorandum has been prepared by The Department for Education and Skills and is laid before Parliament by Command of Her Majesty.
- 1.1 This memorandum contains information for the Joint Committee on Statutory Instruments.
2. **Description**
- 2.1 These Regulations replace The Education (School Organisation Proposals) (England) Regulations 1999 (SI 1999/2213) (as amended), the Education (Change of Category of Maintained Schools) (England) Regulations 2000 (S.I. 2000/2195), the Education (Maintained Special Schools) (England) Regulations 1999 (S.I. 1999/2212) (as amended) and The Education (New Secondary School Proposals) (England) Regulations 2006 (S.I. 2006/2139) (as amended). They set out the arrangements for establishing, discontinuing and making alterations to maintained schools. They specify the information required, the way in which proposals must be published, and how they will be decided.
3. **Matters of special interest to the Joint Committee on Statutory Instruments**
- 3.1 None.

#### 4. **Legislative Background**

- 4.1 The Regulations are made under Part 2 of the Education and Inspections Act 2006 (sections 7 to 32). This Part and Schedules 2 and 3 to the Act set out the general requirements for opening, closing, and changing schools, but provide that the detail shall be prescribed in regulations. They replace the current law relating to school organisation.

#### 5. **Extent**

- 5.1 These Regulations apply to England only.

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

- 6.1 There are no human rights implications.

#### 7. **Policy background**

- 7.1 The policy background is set out in the Department for Education and Skills' White Paper *Higher Standards, Better Schools for All*, published in October 2005. Policies were carried forward in the Education and Inspections Act 2006. The objectives of the policies are to give a new focus to the work of local authorities as commissioners rather than providers of educational services, and to increase the diversity and choice of provision available to parents and pupils. The Act therefore extends competitions for new schools to primary and special schools. The opportunity was also taken to consolidate previous legislation relating to maintained schools in relation to England.
- 7.2 Regulation 9 of the School Organisation (Establishment and Discontinuance of Schools) (England) Regulations flows from section 8 of the Act. Section 8 was introduced by Government Amendment following commitments made by the then Minister for Schools, Jacqui Smith, in Commons Committee that regulations would specify criteria that would allow local authorities to enter a community school into a competition without the need for explicit consent, and set out the criteria for entry of community schools into competitions, such as the educational standards and diversity of existing schools in the authority (Hansard for Standing Committee E 20 April 2006, Col 318).
- 7.3 Consultation on the draft Regulations took place between 13 November 2006 and 4 February 2007. Details of the consultation exercise, and a summary of responses, are available on the DfES website at <http://www.dfes.gov.uk/consultations>  
No new considerations were brought to the attention of the Department, and there was wide support for the approach taken in updating the Regulations. There was particular support for the streamlining of some procedures, and for making proposals more accessible to interested parties.
- 7.4 Officials wrote to local authorities and others on 1 March 2007 to let them know that the Regulations were likely to come into force on 25 May, and the

implications for proposals that had been published but not decided by that date.

**8. Impact**

- 8.1 A Regulatory Impact Assessment has not been prepared for this instrument as it has no impact on business, charities or voluntary bodies.
- 8.2 The impact of the instrument on the public sector will fall on local authorities, who will have greater requirements to hold competitions for new schools, and increased decision-making duties following the abolition of school organisation committees. The impact will, however, be minor, since local authorities supplied support services for school organisation committees, and will always have prepared supporting information when considering the need for new schools.

**9. Contact**

- 9.1 Chris Crathorne at the Department for Education and Skills Tel: 01325 391275, e-mail: [chris.crathorne@dfes.gsi.gov.uk](mailto:chris.crathorne@dfes.gsi.gov.uk), can answer any queries regarding the instrument.