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## EXPLANATORY NOTE

*(This note is not part of the Order)*

This Order is the seventh commencement order made under the Education and Inspections Act 2006. Article 2 brings into force on 1st September 2008 the following provisions of that Act.

**Section 37** amends sections 58 and 60 of the School Standards and Framework Act 1998 (SSFA 1998). The provision is to be commenced in relation to England only; the National Assembly for Wales having the power to commence the provision in relation to Wales.

Section 37(1) amends section 58 of SSFA 1998 to enable head teachers at foundation and voluntary controlled schools with a religious character to be “reserved teachers”, that is teachers who are appointed specifically to teach religious education in accordance with the tenets of the school’s designated religion.

Section 37(2) amends section 60 of SSFA 1998. Paragraph (a) makes amendments consequential on the amendment to section 58 made by subsection (1). Paragraph (b) excludes the application to England of section 60(6) of SSFA 1998, which prevents a voluntary aided school with a religious character from applying religious criteria in connection with the employment of members of staff other than teachers. The appointment of these members of staff will be subject to the Employment Equality (Religion or Belief) Regulations 2003 which will have the effect of preventing the governing body from discriminating on religious grounds in the appointment of non-teaching staff, except in a case where being of a particular religion or religious denomination is a genuine occupational requirement.

**Section 77(2)** gives effect to **Schedule 8** which inserts Schedule 35B to the Education Act 1996 (EA 1996). Both section 77(2) and Schedule 8 were commenced by The Education and Inspections Act 2006 (Commencement No. 5 and Saving Provisions) Order 2007 except in relation to paragraphs 11, 12 and 13 of Schedule 35B. Schedule 35B defines ‘eligible child’ for the purposes of section 508B of EA 1996 i.e. those classes of children whose travel needs fall to be considered under section 508B and provided free of charge. Paragraphs 11, 12 and 13 relate to children of 11 years and above from low income families. This Order commences section 77(2) and Schedule 8 to the extent that they are not already in force, so that children of 11 years and above from low income families are included in the definition of ‘eligible child’.

**Section 154** amends section 5(5) of the Education Act 2005. It adds a further matter – a school’s contribution to community cohesion – to the list of matters on which the Chief Inspector is under a general duty to report. This corresponds to the general duty of a governing body of a maintained school to promote community cohesion, in section 38 of the Act.

Article 3 contains transitional provisions. These provide that current members of staff at schools to which section 60 applies, will continue to enjoy the rights currently conferred on them by that section for as long as they are employed at the school. This means that voluntary aided schools with a religious character cannot apply religious criteria in connection with the employment of its current non-teaching members of staff for as long as those individuals continue to be employed at the school.