

**EXPLANATORY MEMORANDUM TO
THE KENT INSTITUTE OF ART AND DESIGN HIGHER EDUCATION
CORPORATION (DISSOLUTION) ORDER 2005**

2005 No.1708

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

2. Description

2.1 This Order dissolves the higher education corporation known as Kent Institute of Art and Design (“KIAD”) and transfers its property, rights and liabilities to the higher education corporation known as The Surrey Institute of Art and Design (“SIAD”). It also makes provision with respect to the current employees of KIAD.

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

3.1 None

4. Legislative Background

4.1 Section 121 of the Education Reform Act 1988 required certain educational institutions under local educational authority control to, if specified in an Order made by the Secretary of State, be conducted by a body corporate. These bodies are defined in the 1988 Act as being “higher education corporations”. Section 121 of the 1988 Act was part of the programme to move Polytechnics and colleges out of local education authority control. Both KIAD and SIAD are higher education corporations which were established under section 121 of the 1988 Act.

4.2 Higher education corporations can only be dissolved by the Secretary of State. Section 128 of the 1988 Act gives the Secretary of State powers to, by Order, dissolve higher education corporations and transfer the properties, rights and liabilities of the corporation to another educational body or a funding council.

4.3 KIAD and SIAD propose the merger of the two educational institutions. In this case the merger is achieved by the dissolution of KIAD and the transfer of its property, rights and liabilities on 1st August 2005 to SIAD.

5. Extent

5.1 This instrument applies to England.

6. European Convention on Human Rights

No statement is required.

7. Policy background

7.1 As explained in 4.1, the Education Reform Act 1988 brought certain polytechnics and colleges out of local authority control, giving them legal status and independence. Like all other higher education institutions they are autonomous institutions, responsible for managing their own affairs. As such they are free to merge with other institutions. However, mergers of higher education corporations usually require one of the corporations to be dissolved and all its assets and liabilities transferred to the other corporation. This requires action on behalf of the Secretary of State.

7.2 Before she makes an Order to dissolve a higher education corporation, the Secretary of State must consult both the relevant corporation and the Higher Education Funding Council for England (“HEFCE”) about the proposed dissolution. She must also obtain the consent of the person to which all the assets and liabilities of the dissolved corporation are being transferred.

7.3 The Secretary of State has complied with these requirements. She has consulted KIAD, SIAD and HEFCE about the proposed dissolution. HEFCE are supportive of the proposed merger and are providing financial support from their Strategic Development Fund to the tune of £2.3million over 5 years. Both governing bodies of the institutions (in effect the corporations) have confirmed that they are happy for the merger to take place in this manner. SIAD have also provided their consent to the transfer to it of all of the property, rights and liabilities of KIAD on 1st August 2005.

7.4 The Department’s White Paper ‘The future of higher education’ published in 2003 made clear that greater freedom and competition in the higher education sector will compel higher education institutions to improve their efficiency and management. As a result, we do expect to see growing collaboration in the higher education sector with more strategic alliances and pooling of the facilities, particularly between institutions with complimentary missions. In some cases this may lead to mergers.

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 on the public sector is negligible

9. Contact

Gudrun Groves at the Department for Education and Skills Tel: 0207 925 5214 or e-mail: gudrun.groves@dfes.gsi.gov.uk can answer any queries regarding the instrument.