

**EXPLANATORY MEMORANDUM TO THE  
SCHOOL GOVERNANCE (NEW SCHOOLS) (ENGLAND) REGULATIONS**

**2007 No. 958**

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

This memorandum contains information for the Joint Committee on Statutory Instruments.

2. **Description**

2.1 The School Governance (New Schools) (England) Regulations 2007 set out the arrangements for the constitution of governing bodies of new maintained schools, including maintained nursery schools, in England. The Regulations incorporate consequential changes from the Education and Inspections Act 2006 to include the models for governing bodies of new trust schools (foundation schools with foundations acquired under the provisions of the Education and Inspections Act 2006).

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

3.1 None

4. **Legislative Background**

4.1 The School Governance (New Schools) (England) Regulations 2007 consolidate the School Governance (New Schools) (General) (England) Regulations 2003 and all of the New Schools Amendment regulations made since 2003. As a result the following regulations will be revoked:

- The School Governance (New Schools) (General) (England) Regulations 2003
- the School Governance (Constitution, Federations and New Schools) (England) (Amendment) Regulations 2005 [revoked by the School Governance (Constitution) (England) Regulations 2007]

4.2 The Regulations also incorporate consequential changes from the Education and Inspections Act 2006 to include the models for governing bodies of new foundation schools where the governing body has determined that the foundation or trust should appoint the minority of governors and new qualifying foundation schools where the governing body have determined that the foundation or trust should appoint the majority of the governing body.

4.3 These Regulations form part of a series of consequential changes to school governance regulations to implement the provisions of the Education and Inspections Act 2006. Related Regulations are:

- the School Governance (Constitution) (England) Regulations 2007
- the School Governance (Federations) (England) Regulations 2007
- the School Governance (Procedures) (England) (Amendment) Regulations 2007

## **5. Extent**

5.1 This instrument applies to England.

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

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

## **7. Policy background**

7.1 The Education and Inspections Act 2006 introduced provisions whereby maintained schools could become “trust schools”. Each trust school will be a foundation school supported by a charitable foundation or Trust acquired under the provisions of the Education and Inspections Act 2006, which will appoint governors to the school's governing body. They will be funded in exactly the same way as other local authority maintained schools. A trust school will employ its own staff, and manage its own land and assets.

7.2 These Regulations set out the requirements for the constitution and membership of the governing bodies of new trust schools, as well as bringing forward the existing regulations on the constitution and membership of other categories of new maintained school governing bodies.

7.3 The Regulations remove the provision contained in the School Governance (New Schools) (General) (England) Regulations 2003 whereby foundation governors, trustees or diocesan authorities can request a direction from the Secretary of State where there is disagreement over the contents of an instrument of government for a new school.

7.4 The Regulations have been subject to public consultation from 13<sup>th</sup> November 2006 until 4<sup>th</sup> February 2007. Four respondents felt that it would be useful for the Secretary of State to retain the power to direct so that any local disputes could be resolved. We consider that this is unnecessary. There is a fixed deadline whereby the Local Authority must ensure that the instrument of government has been made before the school opening date. We believe that this deadline is sufficient to drive the disagreeing parties to reach agreement and ensure that the instrument is made. This was the only substantive comment received from the consultation.

## **8. Impact**

- 8.1 A Regulatory Impact Assessment has not been prepared for this instrument since it will not impose any significant cost or increase in workload to schools or local authorities.

## **9. Contact**

- 9.1 Geoffrey Friston at the Department of Education and Skills Tel: 01325 391288 or e-mail: [geoff.friston@dfes.gsi.gov.uk](mailto:geoff.friston@dfes.gsi.gov.uk) can answer any queries regarding the instrument.