

**EXPLANATORY MEMORANDUM TO**  
**THE SECRETARY OF STATE FOR EDUCATION ORDER 2010**

**2010 No. 1836**

**1.** 1.1 This explanatory memorandum has been prepared by the Department for Education and is laid before Parliament by Command of Her Majesty.

**2. Description**

2.1 This Order makes provision for a Secretary of State for Education, to take over functions of the Secretary of State for Children, Schools and Families, in consequence of the departmental name-change announced by the Prime Minister on 12 May 2010.

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

3.1 None.

**4. Legislative Background**

4.1 This Order is made in pursuance of sections 1 and 2 of the Ministers of the Crown Act 1975. It provides for the Secretary of State for Education to be incorporated as a corporation sole and transfers all functions from the Secretary of State for Children, Schools and Families to the Secretary of State for Education. The Order also makes consequential provision in connection with the transfer of functions.

4.2 Where functions are vested in the Secretary of State at large, they do not need to be transferred by this Order as they are passed by administrative means when entrusted to the relevant Secretary of State. Certain functions cannot be transferred administratively, as they can be when they are vested in the Secretary of State at large, and this Order provides for the transfer of such functions.

**5. Territorial Extent and Application**

5.1 This instrument applies to all of the United Kingdom.

**6. European Convention on Human Rights**

6.1 The Secretary of State for Education has made the following statement regarding Human Rights:

In my view the provisions of The Secretary of State for Education Order 2010 are compatible with the Convention rights.

**7. Policy background**

7.1 On 12 May 2010, the Prime Minister announced the appointment of a Secretary of State for Education, and a Department of the same name. The new Secretary of State

for Education takes over the functions of the existing Secretary of State for Children, Schools and Families. There are no machinery of government changes.

7.2 The new Secretary of State is incorporated as a corporation sole by the Order. This enables him, and his successors, to own property and to have a corporate seal.

7.3 Property rights and liabilities of the existing Secretary of State are transferred to the new Secretary of State.

7.4 The Order also makes consequential amendments to legislation to ensure that references to the former Secretary of State for Children, Schools and Families, and the associated Department, are changed to reflect the name of the new Secretary of State and Department.

## **8. Consultation Outcome**

8.1 No consultation is required in relation to this transfer of functions and none has been undertaken.

## **9. Guidance**

9.1 It is not intended to issue any guidance.

## **10. Impact**

10.1 There is no impact on business, charities or voluntary bodies.

10.2 The impact on the public sector is neutral as resources are being transferred from the Department for Children, Schools and Families to the Secretary of State for Education.

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 This instrument will not be subject to monitoring or review.

## **13. Contact**

Paul Lowe at the Department for Education Tel: 020 7783 8571 or e-mail: [paul.lowe@education.gsi.gov.uk](mailto:paul.lowe@education.gsi.gov.uk) can answer any queries regarding the instrument.