

**EXPLANATORY MEMORANDUM TO**  
**THE SCHOOL FINANCE (ENGLAND) (AMENDMENT) REGULATIONS 2010**  
**2010 No. 210**

1. This explanatory memorandum has been prepared by the Department for Children, Schools and Families and is laid before Parliament by Command of Her Majesty.

**2. Purpose of the instrument**

2.1 The instrument makes a number of amendments to the School Finance (England) Regulations 2008 (“the 2008 Regulations”). First, it allows local authorities to adjust their funding formulae for pupils who are registered at more than one school (dual registration),

2.2 Second, local authorities will have to publish their Schemes for Funding Schools on a public website, together with the date on which any revisions are due to come into force.

2.3 Third, references to post-16 funding have been amended to take account of the creation of the Young People’s Learning Agency for England (YPLA) from 1 April 2010.

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

3.1 None

**4. Legislative Context**

4.1 Sections 47, 48, and 138(7) of and paragraph 1(7) of Schedule 14 to the School Standards and Framework Act 1998 set out the powers and duties which local authorities have in relation to the financing of maintained schools, including the determination of budget shares and local education authority financial schemes. The 2008 Regulations are made in exercise of the powers conferred by this Act, and this instrument amends these Regulations.

4.2 The Young People’s Learning Agency for England (YPLA) was established under section 60 of the Apprenticeships, Skills, Children and Learning Act 2009. It takes over some of the functions of the Learning and Skills Council for England (LSC) from 1 April 2010.

**5. Territorial Extent and Application**

5.1 This instrument applies to England.

**6. European Convention on Human Rights**

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

## **7. Policy background**

- ***What is being done and why***

7.1 Pupils are increasingly undertaking their education at more than one school. This was recognised in the 2008 Regulations, which allowed local authorities to fund pupils who were at Key Stage Four and accessing practical and applied learning (including diplomas), at a different rate to other pupils. However, they required local authorities to fund other dually registered pupils in full at both schools when constructing their local funding formula. These might include special school pupils spending time in a mainstream school. The 2008 Regulations, as amended by these Regulations, will allow local authorities to fund all dually registered pupils at a different rate to other pupils.

7.2 Schemes for Funding Schools define the financial working relationship between schools and their local authority. These already have to be published but the means is at the discretion of the authority. The requirement to publish their scheme of financial management on a public website along with the date on which any revisions are due to come into force has arisen as a result of instances of schools not knowing which scheme was the latest published scheme to which they should be working, and this causing dispute and difficulties. Schemes should be on a public site to ensure that Governors in particular have access to the local scheme easily and without having to work via their school intranet site. Additionally there are occasions when it would be helpful for department officials to be aware of the latest scheme when answering correspondence so that a specific answer may be given instead of a vague answer referring correspondents to their local scheme.

7.3 The LSC will cease to exist from 1 April 2010. Some of its functions in relation to making funding allocations for post-16 provision in schools will transfer to the YPLA and the 2008 Regulations are therefore amended to recognise the YPLA's future role.

- ***Consolidation***

7.4 These Regulations do not consolidate other Regulations. They simply amend the 2008 Regulations.

## **8. Consultation outcome**

8.1 There was a full consultation with stakeholders on the proposed changes from August to October 2009. The consultation was largely about the introduction of the Early Years Single Funding Formula, which would have required local authorities to use a single funding formula to determine the funding for all providers, public and private, of the free entitlement of early years provision for three and four years olds. The Minister subsequently decided to postpone the introduction of this requirement

for a year to give local authorities more time to prepare for this significant change. The instrument is, therefore, considerably shorter than originally envisaged.

8.2 There were 32 responses from local authorities, Schools Forums and other organisations. There was strong support for the proposals relating to this instrument and, as a result of comments made, the changes relating to dual registration of pupils were introduced. A number of authorities had commented that the department adjusts its grant allocations to local authorities for dually registered pupils, so the change is consistent with existing policy.

## **9. Guidance**

9.1 A guidance note is to be sent to all local authorities outlining the changes.

## **10. Impact**

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

10.2 The impact on the public sector is to promote greater flexibility in how local authorities may fund pupils in their schools and to require greater transparency in how Schemes for Funding Schools are made available.

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 The changes will be monitored through the usual contact which the School Funding Team within the Department for Children, Schools and Families has with schools and local authorities. It will log and review any correspondence from schools and local authorities relating to the instrument, and will maintain links to published schemes on local authority websites.

## **13. Contact**

Keith Howkins at the Department for Children, Schools and Families Tel: 020 7227 5163 or email: keith.howkins@dcsf.gsi.gov.uk can answer any queries regarding the instrument.