

EXPLANATORY MEMORANDUM TO
THE EDUCATION (SCHOOL ATTENDANCE TARGETS) (ENGLAND)
(AMENDMENT) REGULATIONS 2010

2010 No. 2838

1. This explanatory memorandum has been prepared by Department for Education and is laid before Parliament by Command of Her Majesty.
 - 1.1 This memorandum contains information for the Joint Committee on Statutory Instruments and the House of Lords Merits Committee.
2. **Purpose of the instrument**
 - 2.1 These Regulations amend the Education (School Attendance Targets) (England) Regulations 2007 (S.I. 2007/2261) (“the 2007 Regulations”) by removing the requirement on governing bodies of schools maintained by local authorities to set annual targets for reducing the number of absences from school.
 - 2.2 Following on from this, the Regulations make further amendments so that governing bodies will not be required to notify the local authority of their annual targets for reducing the number of absences from school. Local authorities will no longer be able to give notice to a governing body that they must submit revised targets; be able to set targets in lieu of those set by a governing body; be obliged to notify the Secretary of State that revised targets have been set; or be obliged to supply the Secretary of State with details on request of the targets set.
3. **Matters of special interest to the Joint Committee on Statutory Instruments**
 - 3.1 None.
4. **Legislative Context**
 - 4.1 The Regulations are being made in order to remove bureaucratic burdens on governing bodies of maintained schools imposed by the 2007 Regulations. Under the proposed amendments to the 2007 Regulations, governing bodies will no longer have to set an annual target for reducing the number of school absences. The Regulations do not remove the Secretary of State’s powers to intervene and take steps to reduce absence from school.
 - 4.2 Regulations 3 and 4 of the 2007 Regulations require governing bodies of maintained schools to set targets on pupil absence, as a percentage of total possible attendances by all pupils at the school, by 31 December of the preceding year. These regulations will be revoked.

- 4.3 Regulations 5 to 8 of the 2007 Regulations enable the Secretary of State to direct a subset of schools to agree with their local authority absence targets for pupil groups who exceeded given thresholds. The Secretary of State will retain this power.
- 4.4 Regulation 9 of the 2007 Regulations imposes requirements about how the notice given by the Secretary of State under regulations 6, 7 & 8 must be given. We propose retaining this regulation.
- 4.5 Regulation 10(1) of the 2007 Regulations provides that if the local authority is not satisfied with a target submitted by a governing body under regulations 4 or 5, they must give notice to the governing body who must submit a revised target. Regulation 10(2) gives the local authority power to set a target where they are not satisfied with the revised target. The local authority is also required under Regulation 10(3) to notify the Secretary of State about targets set under regulation 5. We propose amending regulation 10 so that it relates only to targets required to be submitted by a governing body at the behest of the Secretary of State under regulation 5.
- 4.6 Regulation 11 of the 2007 Regulations requires local authorities to provide details of any target set under regulations 4, 5 or 10(2), where such information is requested by the Secretary of State. We propose amending this regulation so that it relates only to the target submitted by the governing body under regulation 5 and regulation 10(2) as amended.
- 4.7 Regulation 12 of the 2007 Regulations prohibits the governing body from modifying any target which has been notified to the Secretary of State (under regulation 10(3)) without the agreement of the local authority. We propose retaining this regulation.

5. Territorial Extent and Application

- 5.1 This instrument applies to England.

6. European Convention on Human Rights

- 6.1 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 The Secretary of State wrote to all local authorities in England on the 4th November 2010 announcing that they would be freed from having to set statutory targets. As part of this announcement, the supporting guidance explained that local authorities and governing bodies of maintained schools will no longer be required to set targets for

persistent absence and overall attendance respectively, and that the regulations would be amended accordingly. This supports the Government's commitment to reducing bureaucracy and shifting power down from central government to local authorities and schools.

- 7.2 The Government however remains firmly of the view that unnecessary absence is unacceptable and must be prevented and tackled by schools. The Government therefore expects that governing bodies of all maintained schools and local authorities will continue to focus on reducing overall absence, unauthorised absence, and persistent absence. Absence will continue to be monitored closely via the pupil level school census.
- 7.3 There is a risk that in removing the requirement to set attendance targets schools may lose focus and attendance rates in schools will fall. The Secretary of State will retain the power to require particular schools to set targets where there are attendance problems.
- 7.4 The 2007 Regulations require that where the Secretary of State gives notice to a governing body to set a target - the proposed target is then submitted to the local authority for approval, and, where the local authority is not satisfied with the target, the local authority can ask the governing body to revise the target. We propose to retain this process requirement as 1) it is the local authority that will have knowledge of the school and what is a sufficiently stretching/achievable target to set; and, 2) the local authority is better placed to administer and/or monitor individual school targets.

8. Consultation outcome

- 8.1 No consultation was conducted. To ensure that burdens and bureaucracy on schools are reduced, amendments to the 2007 Regulations need to be in force before the next round of target setting is required – 31 December 2010, so there has not been time to conduct a consultation. However, feedback from a seminar with schools, held on 7 September, and feedback from local authorities through small scale field studies, was that the burdens associated with target setting outweighed their usefulness. We are confident that, in removing this burden, schools and local authorities will welcome this amendment to the 2007 Regulations without the need to consult.

9. Guidance

- 9.1 As these amendments to the 2007 Regulations remove the requirement for governing bodies of maintained schools to set targets, no new guidance will be required. Schools have already been informed of this in the supporting guidance that accompanied the Secretary of State's announcement – see paragraph 7.1 above.

10. Impact

- 10.1 A Regulatory Impact Assessment has not been prepared for this instrument as it has no impact on business, charities or voluntary bodies.
- 10.2 The effect of these amending Regulations is to remove the requirement for governing bodies of maintained schools to set targets for reducing absence from school. Therefore the impact on the public sector is beneficial in terms of removing a bureaucratic burden.

11. Regulating small business

- 11.1 The legislation does not apply to small business.

12. Monitoring & review

- 12.1 Pupil absence data is collected through the School Census system and statistics are published on a termly basis at local authority level and annually at school level as part of the schools Achievement and attainment tables. The data collected will be continually reviewed to identify whether any schools attendance levels have slipped, with a view to using the Secretary of States power to set a target for those schools where their attendance is a problem.

13. Contact

- 13.1 Greg Midcalf at the Department for Education, Tel: 020 7340 7216 or email: greg.midcalf@education.gsi.gov.uk can answer any queries regarding the instrument.