

EXPLANATORY MEMORANDUM TO
THE EDUCATION (INFORMATION ABOUT INDIVIDUAL PUPILS) (ENGLAND)
(AMENDMENT) REGULATIONS 2011

2011 No. 2123

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

2. Purpose of the instrument

This instrument amends the Education (Information about Individual Pupils) (England) Regulations 2006 (“the 2006 Regulations”) to require additional information to be provided about the results of learning aims for sixth form pupils in mainstream schools. It also updates in the 2006 Regulations various statutory references identifying service personnel to refer to current legislation.

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

None.

4. Legislative Context

4.1 The 2006 Regulations place requirements on schools to provide specified information to the Secretary of State and the local authority, on request. This instrument amends paragraph 4(d) of Schedule 2 of the 2006 Regulations to require schools with sixth forms to provide the results of completed learning aims alongside other information currently provided about learning aims. This instrument also amends Schedule 2 to require schools to provide the home post code for all pupils for whom learning aims information is being supplied, which may include those who have left the school at the date of the data collection.

4.2 This instrument also amends paragraph 1(a) of Schedule 2 of the 2006 Regulations to change the period during which a pupil has to have been on the school register in order for learning aims data to be supplied for them.¹

4.3 This instrument also amends Part 1 of Schedule 1 to the 2006 Regulations to update the statutory references in paragraph 19 that relate to service personnel to refer to the Armed Services Act 2006 (which repealed and replaced the provisions of the Army

¹ The 2006 Regulations allow the Secretary of State to request the information set out in Schedule 2 from schools with sixth forms maintained by local authorities, as set out in regulation 4, and non-maintained special schools, city technology colleges, city colleges for the technology of the arts and Academies, as set out in regulation 5. In practice, the Secretary of State does not request this information from non-maintained special schools.

Act 1955, the Air Force Act 1955 and the Naval Discipline Act 1957 currently referred to in paragraph 19 of the Schedule) and the Visiting Forces (British Command) Act 1933.

5. Territorial Extent and Application

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

7.1 Information on the outcome of learning aims is used to calculate qualification success rates (QSRs). Learning aims are courses of studies that, if completed successfully, will lead to a recognised qualification. QSRs measure the percentage of learning aims started that result in a pass. Their current main use is in funding for school sixth forms but the intention is that they will be used as a published performance measure from 2012, enabling comparisons to be made between the success rates of different 16-18 providers. The publication of QSRs aligns with commitments in the DfE White Paper to enable parents and students to compare school sixth forms with other post 16 providers.

7.2 Currently QSRs for school sixth forms are produced by using the data on the learning aims studied by pupils supplied by schools under the 2006 Regulations (collected via the School Census), and matching with results data from awarding bodies. Collecting information about the learning aims and their results direct from schools under the 2006 Regulations (and via the School Census) will end the need to match information provided by schools with data from awarding bodies, ensuring the data is more accurate and available sooner. It will also reduce the burdens on schools by ending the need for schools to check the data matched by the Department against their own records and allowing the collection of learning aims information in the Summer Census to be dropped.

7.3 The Department is currently undertaking a review of 16-19 funding, with a consultation document due for publication in early Autumn. When that consultation period is over, a decision will be made on whether QSRs will continue to be used in the funding formula. Nevertheless, these changes to the 2006 Regulations are necessary to enable the Department to meet its commitments to developing comparable measures of performance across all post 16 providers.

7.4 At present, a pupil can only be included in the data collection on learning aims if they were on the school register during the twelve month period from the date of the request made by the Secretary of State for the learning aims information. The date of the request is effectively the first day of the collection period, known as the Census Day and the Autumn Census Day is in the first week of October. This means that any pupils who started learning aims but left the school before the first week of October in the academic

year prior to the Autumn School Census, would not be included in the collection. This could have an impact on a school's QSR and therefore its funding and/or performance measures. The 2006 Regulations are amended to allow learning aims information to be requested about pupils who were on the school register during any period which may be specified by the Secretary of State.

7.5 A key element of the current School / Academy Sixth Form Funding Formula is the "deprivation uplift" element applied to each pupil. This deprivation uplift can result in the overall funding allocated for each learner increasing significantly. It is derived from the pupil's post code. Home post code is currently collected for all pupils enrolled at school on Census Day in the Spring School Census. As a result of the amendment, home post code will now also be collected for all pupils for whom learning aims information is being submitted in the Autumn School Census. Collecting post code information alongside the learning aims information in the Autumn School Census rather than trying to match in post code information from the Spring School Census will result in more timely, complete and accurate data.

7.6 These are very minor amendments to the 2006 Regulations, but since these Regulations have now been amended seven times, consideration will be given to consolidating at the next opportunity.

8. Consultation outcome

8.1 As has been the established practice when amending the 2006 Regulations, no formal consultation process has taken place in relation to these changes. However, extensive informal consultation on the additional data items has taken place with the Department's Star Chamber Scrutiny Board (SCSB), the providers of management information systems to schools and local authorities, and a range of other "QSR" stakeholders within the Department, the Young People's Learning Agency, the Skills Funding Agency, the FE Data Service, the Information Authority, BIS and Ofsted. Consultations have also been held with the Association of School and College Leaders, the Secondary Heads Reference Group and the Bureaucracy Reference Group. These consultations have ensured that any changes meet the data needs of the Department and its Arms Length Bodies whilst at the same time minimise the burdens on schools.

8.2 The SCSB have approved all the proposed changes to the collections. The providers of management information systems to schools have also agreed to develop their systems to hold the required data and extract routines to supply it to the Department.

8.3 The SCSB assesses all Department proposals for new, or revised, data collections relating to children and young people. It aims to ensure all new collections, or revisions to existing collections, are feasible, necessary, provide value for money and are timed to add as small a burden to the frontline as possible. The group is formed from frontline local authority representatives involved in collecting and processing data on children, plus serving head teachers from primary and secondary education. A representative from Ofsted has a standing place on the group.

9. Guidance

In order to ensure that schools, pupil referral units and local authorities are aware of the amendments being made to the 2006 Regulations (and the School Census and PRU Census used to collect the information required), the Department uses a number of different approaches:

- (a) preparation and advice notes are issued, tailored to each phase of school (nursery, primary etc) for the School Census, with background about what is being collected, why it is being collected and information about any particular points they should be aware of
- (b) frequently asked questions are provided
- (c) changes to collections are highlighted in newsletters and bulletins to local authorities
- (d) all documentation is made available on the Department's website - <http://www.education.gov.uk/schools/adminandfinance/schooladmin/ims/datacollections>

10. Impact

10.1 This instrument has no impact on businesses and civil society organisations.

10.2 The instrument has a minimal impact on the public sector.

10.3 An Impact Assessment has not been prepared for this instrument.

11. Regulating small business

The legislation does not apply to small business.

12. Monitoring & review

The outcome of this instrument will be subject to an internal review after 12 months and the legislation may be amended accordingly.

13. Contact

Gill Turner at the Department for Education, Tel: 0114 2742551 or email: gill.turner@education.gsi.gov.uk, can answer any queries regarding the instrument.