

EXPLANATORY MEMORANDUM TO
THE SCHOOL GOVERNANCE (CONSTITUTION AND FEDERATIONS) (ENGLAND)
(AMENDMENT) (NO. 2) REGULATIONS 2014

2014 No. 1959

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

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

- 2. Purpose of the instrument**

These Regulations amend the School Governance (Constitution and Federations) (England) (Amendment) Regulations 2014 (“the Amendment Regulations 2014”). Their purpose is to correct an error in the Amendment Regulations 2014 so that (a) the requirement for governors to be appointed on the basis of their skills, and (b) the new procedure for removing surplus governors, are introduced from 1 September 2014 and not 1 September 2015.

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

None

- 4. Legislative Context**

The Amendment Regulations 2014 amended, among other things, the School Governance (Constitution) (England) Regulations 2012 (“the Constitution Regulations 2012”) and the School Governance (Federations) (England) Regulations 2012 (“the Federations Regulations 2012”). They also revoked the School Governance (Constitution) (England) Regulations 2007 (“the Constitution Regulations 2007”) and the School Governance (Federations) (England) Regulations 2007 (“the Federations Regulations 2007”). The Constitution Regulations 2007 and the Constitution Regulations 2012 set out the arrangements for the constitution of governing bodies of maintained schools in England. The Federations Regulations 2007 and the Federations Regulations 2012 set out a number of procedural and constitutional arrangements for federations of maintained schools in England and those considering or establishing a federation.

- 5. Territorial Extent and Application**

This instrument applies to England.

6. European Convention on Human Rights

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

7. Policy background

These amendment regulations ensure that the changes made by the Amendment Regulations 2014 will be introduced from the dates intended. Those changes ensure that governing bodies of all maintained schools will operate under the same legislative framework when choosing the membership of the governing body. The changes also require those who nominate or appoint governors of maintained schools to do so on the basis of the skills the governor possesses to add to the effective governance and success of the school. This will ensure that governing bodies and those appointing governors emphasise the importance of governors' skills. The changes also remove the 'juniority' rule for removing surplus governors. The changes provide greater local discretion to identify, on the basis of skills, which existing governors should continue to hold office.

8. Consultation outcome

There has been no consultation on the changes made by these amended amendment regulations. A full consultation was carried out on the changes made in the Amendment Regulations 2014. A full report of the consultation, including the Government's response, can be found on the GOV.UK website at:

<https://www.gov.uk/government/consultations/maintained-school-governing-body-constitution-regulation-changes>.

9. Guidance

Statutory guidance on the Constitution Regulations 2012 and the Federation Regulations 2012 has been published on GOV.UK website. The Governors' Handbook, which provides governors with all the information they need to know about their roles and responsibilities, will also be amended to reflect the changes being made by these regulations.

10. Impact

An impact assessment has not been prepared for this instrument. The proposed changes have no cost implications for governing bodies or local authorities.

11. Regulating small business

The legislation does not apply to small business.

12. Monitoring & review

We will monitor the operation of these regulations through regular meetings with representative organisations on the Advisor Group on Governance.

13. Contact

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