EXPLANATORY MEMORANDUM TO

THE CHANGING OF SCHOOL SESSION TIMES (ENGLAND) (REVOCATION) REGULATIONS 2011

2011 No. 1954

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

2.1. This fulfils section 2.52 of The Importance of Teaching: The Schools White Paper 2010. Section 2.52 states: "We will remove prescription on school governing bodies, simplifying the list of decisions that they are required to take. We will allow them, for example, to take decisions about the length of the school day in whatever way they consider appropriate." Accordingly, the revocation instrument removes from community, voluntary controlled and community special schools certain prescribed measures which they must adhere to if proposing to modify the time when the school day begins or ends, or to modify the timing of a session within the school day, for example, to extend or shorten the midday break. Revocation was also sought by the Select Committee on the National Curriculum.

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

3.1. None.

4. Legislative Context

4.1. The Changing of School Session Times (England) (Revocation) Regulations 2011 revoke the Changing of School Session Times (England) Regulations 1999 (SI No. 2733), which set out procedures to be followed by the community, voluntary controlled and community special schools wishing to change the timing of one or both of their daily sessions.

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

7.1. By means of the 1999 regulations, the government of the day required governing bodies in community, voluntary controlled or community special schools, when proposing to change the time of any session, to consult the local authority, the head teacher and all persons employed at the school. They also have to prepare a (multilingual if appropriate or directed by the local authority) statement of the proposal, specifying the change and its timing, with an annex, if required by the local authority, setting out any comment by the local authority and any response.

7.2. They also must hold a meeting, duly publicised as to date, time and place, for discussion of the proposal by all parents of registered pupils at the school, the head teacher and such other persons as the governing body may invite. Not less than two weeks before the meeting they must arrange that parents of all registered pupils at the school are given free of charge copies of the statement and any annex; and that copies are available for inspection at the school during the two weeks before the meeting. They must consider any comments made at the meeting before determining whether the proposed change should be made and if so whether with any modification.

7.3. The local authority and the parents of all registered pupils at the school shall be informed of the decision at least six weeks before any change will take effect and at least three months before any change that will affect when the school begins in the morning or ends in the afternoon, or both. Any change will take effect only at the beginning of a school term, or of a school year when the change will affect when a school begins in the morning or ends in the afternoon.

7.4. The regulatory requirement, as summarised above, does not apply to other maintained schools (foundation, foundation special, or voluntary-aided schools). These other schools manage such changes to their session times under the general legal principle that they must act reasonably and therefore should consult and give notice reasonably.

7.5. In principle, the Department for Education thinks it right to remove the burden of these regulations. Other schools are able to manage changes to their session times effectively without following these detailed procedures. Therefore it is not clear that there is any benefit to imposing these requirements on any schools. We do not foresee any local difficulties – about transport contracts, for example – that cannot be resolved by sensible agreement about timescales. Following reasonable consultation and notice, local rules may continue to restrict some changes to the start of the academic year if that would help. Equally, there is no reason why minor changes within the school day (such as shortening or lengthening the midday break) should be subject to national prescription. In the words of the White Paper, the Department will “increase freedom and autonomy for all schools, removing unnecessary duties and burdens, and allowing all schools to choose for themselves how best to develop.”

8. Consultation outcome

8.1. We have not run a formal consultation but have written to a selection of Local Authority transport managers and invited their comments. The key points that emerged were:

- In general the removal of unnecessary bureaucracy is welcomed as long as there is clear guidance on what is regarded as reasonable and good practice.

- Local authorities should continue to have the power to recoup any additional costs from schools, including Academies. Local authorities are not currently able to pass on these charges to Academies as they currently can to maintained schools.

- There is a view that that schools should still adhere to a period of consultation with and notice period to the local authorities (for example, 3 months). This will allow sufficient time for transport planners to implement any necessary changes to services.

- Schools must give full consideration on the impact of changing school session times on families, other schools and the community.

9. Guidance

9.1. We will not issue detailed guidance. When we announce the revocation on the Department for Education website we will emphasise the need for schools to consult appropriately and to serve appropriate notice. We will provide a set of questions and answers for schools and local authorities, which will address the issues raised during the consultation. We will update this to address any further issues that emerge after the revocation.

10. Impact

10.1. The impact on business, charities or voluntary bodies is nil.

10.2. The impact on the public sector is likely to be nil since local authorities can charge schools for additional transport requirements such as an extra bus. Schools will be able to take such potential costs into account when considering whether or not to change their start or finish times.

10.3. An Impact Assessment is not needed for this revocation because the policy does not meet any of the Impact Assessment requirements according to the Impact Assessment Guide, as it does not have an effect on the private or civil society sectors; it does have an effect on the public sector, but does not breach any of the associated thresholds.

11. Regulating small business

11.1. The legislation does not apply to small business.

12. Monitoring & review

12.1. We do not propose any formal review. Only a minimal review is proposed, in late summer 2012, for reasons of proportionality.

13. Contact

13.1. Mr Karamjeet Bhuhi at the Department for Education – 0114 2742006 or email: karamjeet.bhuhi@education.gsi.gov.uk – can answer any queries regarding the instrument.