EXPLANATORY MEMORANDUM TO THE

CHILDREN ACT 2004 (CHILDREN'S SERVICES) REGULATIONS 2005
2005 No. 1972

CHILDREN ACT 2004 (JOINT AREA REVIEWS) REGULATIONS 2005
2005 No. 1973

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

2. Description

2.1 The Children Act 2004 (Children's Services) Regulations 2005, coming into force on 1 September 2005, define services which are children's services, in addition to functions listed in section 23(3) of the Act, for the purposes of sections 20-22 of the Act. Section 20 provides for joint area reviews of children's services, to be undertaken by two or more relevant inspectorates and commissions[1], which review how, taken together, the services being reviewed improve the well-being of children and relevant young persons. Section 21 provides for a Framework for Inspection of Children's Services, to set out principles to be applied by relevant inspectorates and commissions in any assessment, inspection, review, investigation or study of children's services, including joint area reviews. Section 22 provides that, in conducting assessments, relevant inspectorates and commissions must co-operate with each other and may delegate functions to each other.

2.2 The Children Act 2004 (Joint Area Reviews) Regulations 2005, also coming into force on 1 September 2005, provide for the operation of joint area reviews of children's services. They give the relevant inspectorates and commissions powers to conduct an inspection for the purposes of a joint area review, including rights to obtain information and to enter premises. They also require the Chief Inspector of Schools to make and issue a report on a joint area review, and require a children's services authority[2] receiving a report to publish it locally and to make and publish a written statement of proposed action in the light of the report.

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

3.1 None.

[1] Section 20(4) of the Children Act 2004 lists relevant persons and bodies. They are the Chief Inspector of Schools (Her Majesty's Chief Inspector of Schools in England), the Adult Learning Inspectorate, the Commission for Social Care Inspection, the Commission for Healthcare Audit and Inspection, the Audit Commission for Local Authorities and the National Health Service in England and Wales, the chief inspector of constabulary, Her Majesty's Chief Inspector of the National Probation Service for England and Wales, Her Majesty's Chief Inspector of Court Administration, and the Chief Inspector of Prisons.

[2] Section 65(1) of the Children Act 2004 defines a children's services authority in England as meaning a county council in England, a metropolitan district council, a non-metropolitan district council for an area for which there is no county council, a London borough council, the Common Council of the City of London, and the Council of the Isles of Scilly.

4. Legislative Background

4.1 The Children Act 2004 (Children's Services) Regulations 2005 are made under powers conferred by section 23(3) and 66(1) of the Children Act 2004. The Children Act 2004 (Joint Area Reviews) Regulations 2005 are made under powers conferred by sections 20(8), (9) and (11) and 66(1) of the Children Act 2004.

5. Extent

5.1 These instruments apply to England.

6. European Convention on Human Rights

6.1 No statement is required.

7. Policy background

7.1 Joint area reviews of children's services are to be undertaken by two or more inspectorates or commissions to evaluate how children's services improve the well-being of children and young persons (and in particular how those services work together to improve their well-being). A joint area review of each children's services authority area in England is to be undertaken between September 2005 and December 2008.

7.2 The Framework for Inspection of Children's Services, devised and published by the Chief Inspector of Schools, ensures that any assessment, inspection, review, investigation or study of a children's service by a relevant inspectorate or commission applies a common set of principles. The purpose of the Framework is to ensure that relevant assessments, including joint area reviews, properly evaluate and report on the extent to which children's services improve the well-being of children and relevant young persons. The Framework was published on 1 July 2005 and is available on Ofsted's website[3].

7.3 The Children Act 2004 (Children's Services) Regulations 2005 define the scope of The Framework for Inspection of Children's Services, of joint area reviews, and of the duty on relevant inspectorates and commissions to co-operate with each other and their power to delegate functions to each other when undertaking assessments. The Children Act 2004 (Joint Area Reviews) Regulations 2005 allow for the operation of joint area reviews, and require the making and publishing of reports and written statements of action following reviews.

7.4 Public consultation attracted 20 responses and no media attention. 7 responses were from children's services authorities, 11 from other public or voluntary sector bodies and 2 from inspectorates. 8 respondents were fully content; others made differing individual points.

7.5 In light of consultation responses, the Department amended The Children Act 2004 (Children's Services) Regulations 2005 to bring within scope functions, relating to recreation, of district councils in county council areas; and added to The Children Act 2004 (Joint Area Reviews) Regulations 2005 a requirement that joint area review reports include a summary for children. Some respondents queried whether The

[3] www.ofsted.gov.uk/publications, reference number 2435.

Children Act 2004 (Children's Services) Regulations 2005 bring particular functions into the scope of children's services inspections. The Department is content that the correct functions are within the definition. Several responses noted that powers of entry and to information vary between inspectorates, and proposed that The Children Act 2004 (Joint Area Reviews) Regulations 2005 should bring them into line. On balance, the Department remains of the view that each individual inspectorate's powers for joint area reviews should apply that inspectorate's powers for its service-specific inspections. The alternative, introducing common powers across inspectorates for joint area reviews, would introduce a new inconsistency between an inspectorate's powers for joint area reviews and for its other inspections. It might also be seen to run counter to assurances to Parliament that joint area reviews will not increase the range of inspectorate powers.

7.4 Archived consultation documents are available on the DfES consultations website[4].

8. Impact

8.1 A Regulatory Impact Assessment of the Children Bill 2004 covered integrated inspection of children's services, and is available on the Department's website. A Regulatory Impact Assessment has not been prepared for these instruments as they have no impact on business, charities or voluntary bodies.

8.2 The impact on the public sector of the new inspection arrangements is to secure better inspection, not more inspection. These instruments, giving effect to the new inspection arrangements, do not place additional burdens on service providers.

9. Contact

John Browning at the Department for Education and Skills Tel: 0207 925 5674 or e-mail: john.browning@dfes.gsi.gov.uk can answer any queries regarding these instruments.

[4] www.dfes.gov.uk/consultations/conArchive.cfm, under title Children's Services Inspection Regulations