EXPLANATORY MEMORANDUM TO

THE COUNTER-TERRORISM AND SECURITY ACT 2015 (MONITORING OF FURTHER EDUCATION BODIES) (ENGLAND) REGULATIONS 2016

2016 No. 683

1. Introduction

1.1 This explanatory memorandum has been prepared by the Department for Business, Innovation and Skills and is laid before Parliament by Command of Her Majesty.

2. Purpose of the instrument

2.1 The Counter-Terrorism and Security Act 2015 (Monitoring of Further Education Bodies) (England) Regulations 2016 are being made under section 32(6) of the Counter-Terrorism and Security Act 2015 (the 2015 Act). Relevant further education bodies are subject to the duty to have due regard to the need to prevent people from being drawn into terrorism. This instrument provides that persons who have entered into a written agreement, by the date the instrument comes into force, with the Secretary of State are designated to perform the function of monitoring a relevant further education body's compliance with the prevent duty.

3. Matters of special interest to Parliament

Matters of special interest to the Joint Committee on Statutory Instruments

3.1 None.

Other matters of interest to the House of Commons

3.2 As this instrument is subject to the negative procedure and has not been prayed against, consideration as to whether there are other matters of interest to the House of Commons does not arise at this stage.

4. Legislative Context

4.1 Section 26(1) of the 2015 Act provides that a specified authority must, in the exercise of its functions, have due regard to the need to prevent people from being drawn into terrorism ('the Prevent duty'). In relation to a relevant further education body (as defined at section 32(1)), a 'monitoring authority' is responsible for ensuring compliance with the duty. Under section 32(4) of the 2015 Act, the Secretary of State is a monitoring authority and can delegate this function to another person. Unless the monitoring function is delegated to the bodies listed at s.32(5), a delegation must be made by regulations (section 32(6) of the 2015 Act).

5. Extent and Territorial Application

5.1 The extent of this instrument is England and Wales.

5.2 The territorial application of this instrument is England only.

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 Further education institutions in England and Wales are either publicly or privately funded. The Office for Standards in Education, Children's Services and Skills (Ofsted) are responsible for monitoring compliance with the Prevent duty of publicly funded further education providers. Since this body is referred to in section 32(5) of the 2015 Act, delegation of the Secretary of State's monitoring function can be made by written notice. All other delegations of the Secretary of State's monitoring function must be made by regulations. Pursuant to this requirement, the Secretary of State seeks to delegate his function by regulations in respect of other relevant further education institutions that are not in receipt of public funding. As set out in section 32(1) of the 2015 Act, these institutions consist of more than 250 students (undertaking courses which relate to qualifications regulated by the Office of Qualifications and Examinations).

7.2 This instrument delegates the function of acting as a 'monitoring authority' to persons with whom the Secretary of State has entered into a written agreement by the date this instrument comes into force, for the purpose of monitoring compliance with the Prevent duty. Such delegation is necessary to ensure that adequate monitoring of relevant further education bodies in England is undertaken. Persons with whom the Secretary of State has entered into a written agreement were recruited on the basis of their expertise in relation to safeguarding young people and experience of working within the further education sector.

7.3 Given the subject matter of the work undertaken by persons with whom the Secretary of State has entered into a written agreement (anti-terrorism), the persons have not been named in the instrument. Relevant details of work undertaken as a monitoring authority – including a means for relevant further education bodies to verify the identity of the persons – can be found at https://www.gov.uk/government/publications/protecting-learners-from-radicalisation-the-prevent-duty.

Consolidation

7.4 There is no need for any consolidation.

8. Consultation outcome

8.1 This instrument is not subject to consultation.

9. Guidance

9.1 Section 29(1) of the 2015 Act provides the Secretary of State with the power to issue guidance to a specified authority (which for the purpose of this instrument includes relevant further education bodies) about the exercise of their duty to prevent people from being drawn into terrorism. Under section 29(1), the 'Revised Prevent Duty Guidance for England and Wales' was issued on 16th July 2015. Further, the 'Prevent

Duty Guidance: for further education institutions in England and Wales' was issued on 18th September 2015.

10. Impact

10.1 The impact on business, charities or voluntary bodies is minimal. The monitoring authority will monitor relevant further education bodies. To the extent that businesses, charities or voluntary bodies meet the definition of relevant further education bodies, they will be subject to monitoring. But the monitoring will not impose additional costs, or will only impose minimal costs, beyond those already incurred in implementing the Prevent duty.

10.2 There is no impact on the public sector.

10.3 An Impact Assessment has not been prepared for this instrument as minimal impact on business is foreseen.

11. Regulating small business

11.1 The legislation applies to the activities of small businesses insofar as these are relevant further education bodies.

11.2 No specific action is proposed to minimise the regulatory burdens on small businesses as the monitoring will not impose additional costs, or will only impose minimal costs, beyond those already incurred in implementing the Prevent duty.

11.3 The basis for the final decision on what action to take to assist small business is that this instrument will have minimal impacts on small businesses.

12. Monitoring & review

12.1 The impact and performance of the monitoring body will be reviewed this year.

13. Contact

13.1 Joseph Wilkinson at the Department for Business, Innovation and Skills, Telephone: 0207 215 0432 or email: joseph.wilkinson@bis.gsi.gov.uk can answer any queries regarding the instrument.