EXPLANATORY MEMORANDUM TO

THE DISABILITY DISCRIMINATION ACT 1995 (AMENDMENT ETC.) (GENERAL QUALIFICATIONS BODIES) (ALTERATION OF PREMISES AND ENFORCEMENT) REGULATIONS 2007
No. XXXX; AND

THE DISABILITY DISCRIMINATION (GENERAL QUALIFICATIONS BODIES) (RELEVANT QUALIFICATIONS, REASONABLE STEPS AND PHYSICAL FEATURES) REGULATIONS 2007
No. 1764

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 first set of regulations set outs the enforcement mechanisms for claims of unlawful discrimination against a general qualifications body and make provision in respect of alterations to premises that are occupied by a general qualifications body under a lease.

2.2 The second set of regulations prescribes the list of relevant qualifications covered by the primary legislation and makes clear that the granting of exemptions from one or more components of an assessment or examination in certain circumstances will be lawful.

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

None.

4. Legislative Background

4.1 Section 15 of the Disability Discrimination Act 2005 insets a new chapter 2A into Part 4 of the Disability Discrimination Act 1995 ("the DDA"), making it unlawful for general qualifications bodies to discriminate against disabled people. These Regulations are the first use of the regulation making powers in that new chapter.

5. Extent

This instrument applies to Great Britain.

6. European Convention on Human Rights

The Minister of State for Schools and 14-19 Learners, Jim Knight has made the following statement regarding Human Rights:

In my view, the provisions of the Disability Discrimination Act 1995 (Amendment Etc.) (General Qualifications Bodies) (Alteration of Premises and Enforcement) Regulations 2007 are compatible with the Convention rights. As the Disability Discrimination (General Qualifications Bodies) (Relevant Qualifications, Reasonable Steps and Physical Features) Regulations 2007 are subject to negative resolution procedure and do not amend primary legislation, no statement is required in respect of them.

7. Policy Background

7.1 The DDA was extended to general qualifications bodies to ensure that the access arrangements did not disadvantage disabled people in respect of gaining general qualifications and to bring the arrangements for general qualifications bodies into line with those for bodies that administer professional or trade qualifications, to which the DDA already applied. These regulations seek to mirror, as far as possible, the arrangements already covering trade and professional qualifications.

7.2 Enforcement of the duties on trade organisations and professional qualifications bodies is through employment tribunals. The general qualifications bodies provisions will be enforceable through the County Court (or Sheriff Court in Scotland) rather than through employment tribunals, as general qualifications do not directly affect employment rights.

7.3 The qualifications that are prescribed as general qualifications are large entry qualifications such as GCSEs and A levels that are most commonly studied for at school.

7.4 Both sets of draft Regulations went out to public consultation in 2006. The Disability Rights Commission ("the DRC") also consulted on an associated draft Code of Practice in 2006. The DRC's Code of Practice is being prepared and will be laid before Parliament in due course.

7.5 Owning to the nature of the draft Regulations, only a small number of responses (13) were received from individuals and organisations (including the DRC and the Joint Council for Qualifications ("the JCQ"). The DfES response to this consultation can be found at:

http://www.dfes.gov.uk/consultations/downloadableDocs/DDA%20result.doc

7.6 Both sets of regulations were amended as a result of the consultation, and further informal consultation processes took place with those bodies that had responded to the original consultation.

8. Impact

8.1 A Regulatory Impact Assessment has not been prepared for these instruments as we anticipate that there should be a negligible impact on general qualifications bodies in terms of cost and burden.

9. Contact

Peter Wilkinson at the Department for Education and Skills (Tel: 020 7925 5317 or e-mail peter.wilkinson@dfes.gsi.gov.uk) can answer any queries regarding this instrument.