EXPLANATORY MEMORANDUM TO

THE DISSOLUTION OF FURTHER EDUCATION CORPORATIONS AND SIXTH FORM COLLEGE CORPORATIONS (PRESCRIBED BODIES) REGULATIONS 2012

2012 No. 1167

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

2. Purpose of the instrument

2.1 These Regulations are made as a consequence of the transfer of the Secretary of State's power to dissolve a further education corporation, or a sixth form college corporation, to the corporation itself under the Education Act 2011 ("the 2011 Act"). These regulations prescribe the bodies to which a further education corporation, or a sixth form college corporation, may transfer its property, rights and liabilities, upon its dissolution.

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

3.1 None

4. Legislative Context

4.1 Under sections 27A and section 33O of the Further and Higher Education Act 1992 ("the 1992 Act") (inserted by the Education Act 2011), further education corporations and sixth form college corporations have the power to dissolve themselves. Further education corporations and sixth form college corporations may only dissolve themselves once they have complied with the requirements of sections 27 and 33N respectively, which both require the corporation to publish details of the proposal for dissolution, and such other information as may be prescribed, in accordance with regulations. The corporation must also consult on the proposal, and take account of the views of those consulted, in accordance with regulations.

4.2 Sections 27B and 33P of the 1992 Act, give further education corporations and sixth form college corporations respectively the ability to transfer their property, rights or liabilities to a person or body prescribed in regulations with that body or persons consent.

4.3 These regulations prescribe those persons or bodies to which a further education corporation, or a sixth form college corporation, may transfer its property, rights and liabilities, upon its dissolution.

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 Through the changes to the 1992 Act (inserted by the Education Act 2011), various statutory requirements and controls have been removed which will serve to free up the sector from central government control, putting responsibility into the hands of the corporation itself.

7.2 Furthermore, the new powers which will enable further education corporations and sixth form college corporations to dissolve themselves, and transfer their property, rights and liabilities to a person or body which has been prescribed in regulations.

7.3 It is our intention that the list of prescribed bodies should be as comprehensive as possible and provide corporations with the flexibility they need to ensure the provision of high quality, flexible provision that meets the needs of their local area.

8. Consultation outcome

8.1 The Department for Business, Innovation and Skills, and the Department for Education sought the views of further education corporations and sixth form college corporations on these Regulations. The Departments received responses from 14 further education corporations, x sixth form college corporations, the Sixth Form College Forum, the Young People's Learning Agency, the Skills Funding Agency, and the Catholic Education Services. The Association of Colleges had previously commented on the changes. The exercise concluded that the sector broadly welcomed the changes brought about through these regulations. Respondents raised a number of clarifying comments and requests for further information on the draft regulations, which we have reflected in the final regulations.

9. Guidance

9.1 Neither the Department for Business, Innovation and Skills, nor the Department for Education will be issuing guidance.

10. Impact

10.1 The impact on business, charities or voluntary bodies is none.

10.2 The impact on the public sector is none.

10.3 An Impact Assessment has not been prepared for these regulations.

11. Regulating small business

11.1 The legislation does not apply to small business.

12. Monitoring & review

12.1 Both Departments will monitor the implementation of these regulations as part of its programme of work with Governors.

13. Contacts

Kathryn Harrison at the Department for Business, Innovation and Skills Tel: 0114 207 5316 or email: kathryn.harrison@bis.gsi.gov.uk can answer any queries regarding this instrument insofar as they apply further education corporations.

Sarah Todd at the Department for Education Tel: 0114 2742387 or email: sarah.todd@education.gsi.gov.uk can answer any queries regarding this instrument insofar as they apply to sixth form college corporations.