EXPLANATORY MEMORANDUM TO

THE REGIONAL LEARNING AND SKILLS COUNCILS REGULATIONS 2007

2007 No.

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

2. Description

These regulations make provision about regional councils of the Learning and Skills Council for England including matters such as regional council membership, the appointment of members, the delegation of regional council functions, and regional council proceedings. They are the first set of regulations to be made implementing section 18A of the Learning and Skills Act 2000 inserted by section 2 of the Further Education and Training Act 2007.

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

3.1 None

4. Legislative Background

4.1 The Learning and Skills Act 2000 provides for the establishment of the Learning and Skills Council for England ("the Council") and for a local learning and skills council structure. Section 3 of the Further Education and Training Act 2007 provides for the abolition of local learning and skills councils.

4.2 Section 2 of the Further Education and Training Act 2007 requires the Council to establish a regional learning and skills council for each area of England specified by the Secretary of State. These regulations are the first to be made using the power in section 18A(2) of the Learning and Skills Act 2000 (as inserted by section 2 of the Further Education and Training Act 2007) making provision about regional councils.

4.3 The Government said at Second Reading Stage of the Further Education and Training Act on 13 December 2006 [Col: 1538] that there would be nine areas in relation to which the Council must establish a regional council. The Secretary of State will confirm this by letter to the Learning and Skills Council.

4.4 Section 2 of the Further Education and Training Act 2007 also inserts provision into the Learning and Skills Act 2000 about regional council functions, and for the issuing of guidance by the Council to regional councils. The power for the Secretary of State to specify the areas of England for which the Council must establish a regional council replicates the previous provision in relation to local councils.

4.5 In accordance with a recommendation by the Delegated Powers and Regulatory Reform Committee, inserted section 152(2B) of the Learning and Skills Act 2000 provides that the first set of regulations about regional councils should be subject to approval of both the House of Lords and the House of Commons. A Government amendment to give effect to this recommendation was moved and agreed to at Lords Grand Committee on 25 January 2007 [Col: GC470].

5. Territorial Extent and Application

This instrument applies to England.

6. European Convention on Human Rights

Bill Rammell, Minister of State, Department for Innovation, Universities and Skills has made the following statement regarding Human Rights:

"In my view the provisions of The Regional Learning and Skills Councils Regulations 2007 are compatible with the Convention rights."

7. Policy background

7.1 The Learning and Skills Council is a single unitary organisation. It has a budget of some £11bn, and secures the provision of facilities for education and training for some 5.5m post-16 learners in England. The Council was established in 2001, and its structure comprised a national Council; a national office in Coventry; and local learning and skills councils in 47 areas of England, as specified in the Learning and Skills Council Prospectus in November 1999.

7.2 But, almost since its creation, the LSC has found it increasingly necessary to operate at a regional level, or within a regional context. It recognised that the statutory structure established in 2000 was no longer fit for purpose, due to changing demands, and the stronger links needed between jobs, training and skills.

7.3 The 2006 Further Education White Paper 'Raising Skills and Improving Life Chances' acknowledged that, in the light of the strengthened regional tier and changes to the local tier, the current structure of 47 local learning and skills councils needed to change, to be more able to respond to the needs of different geographical areas. The White Paper suggested that the Council's Chair should advise on a new structure for the LSC which secured strong engagement of employers and other stakeholders. The Chair's proposals, which were agreed by Ministers, were that the 47 local councils should cease to exist, and that they should be replaced by nine regional committees (regional councils).

7.4 The regional council structure has been given a specific statutory basis by the Further Education and Training Act because otherwise, with the abolition of local learning and skills councils, no part of the LSC's sub-national structure would be provided for in primary legislation, which would not have been tenable for such a large organisation, which exercises such fundamental powers.

7.5 These Regulations are necessary in fulfilling the policy which underpins the restructuring of the LSC. Without them, the regional councils could not be established, as the Regulations themselves make the necessary provisions relevant to their set-up.

7.6 The LSC have been consulted on the content of the Regulations and they are in agreement with them. Also, an illustrative draft of the Regulations was first made available to the House of Lords ahead of Grand Committee in January 2007 [Lords Report Stage - Col:1498].

7.7 The decision to put in Regulations, rather than in primary legislation, the detailed provisions for the new regional councils on matters such as membership, appointments of the members, chairman and staff, remuneration, and delegation of functions was made in order to give the Council flexibility over time. This enables it to respond to, and more rapidly accommodate,

any machinery of government changes without having to bring forward primary legislation.

7.8 Particular consideration was given to the composition of the nine regional councils, and indicative membership was confirmed at Lords Grand Committee stage of the Further Education and Training Act 2007 on 23 January 2007 [Col:GC 329]. The membership is designed to secure the strong engagement of all the key stakeholders, and is both balanced and diverse, to reflect the sector that it funds. It is also expected that, for the first time, each of the regional councils will include a learner.

8. Impact

8.1 An Impact Assessment is attached to this memorandum.

8.2 These regulations will have a positive impact on the public sector. The purpose of the Further Education and Training Act 2007 as a whole is to reform the Further Education sector in order to create a less bureaucratic, more responsive system that equips learners and provides employers with the skills required to succeed in a competitive global economy. Therefore, the measures in the Act in general, and these regulations in particular, are focused on public sector reform.

8.3 The measures in the Further Education and Training Act 2007 put the needs of learners and employers at the heart of the system, and achieve related efficiencies. The greatest financial savings will be made in central government, with the LSC anticipating savings of £40m per annum through the restructuring of its executive side. The greatest impact will be a more flexible, streamlined LSC that is able to better respond to needs at national, regional and local level.

9. Contact

Chris Rivington at the Department of Innovation, Universities and Skills, Tel 0114 259 3944 (email chris.rivington@dius.gsi.gov.uk) can answer any queries regarding the instrument.

Summary: Intervention & Options		
Department /Agency: Department For Innovation, Universities and Skills	**Title:** Impact Assessment of THE REGIONAL LEARNING AND SKILLS COUNCILS REGULATIONS 2007	
Stage: Final Proposal	**Version:** 1	**Date: 31 October 2007**
Related Publications: Futher Education and Training Act 2007 ("the Act"); and its Regulatory Impact Assessment.		

Available to view or download at:

http://www.dfes.gov.uk/publications/furthereducationandtrainingbill/docs/FEBillRIA

Contact for enquiries: Chris Rivington **Telephone:** 0114 259 3944

What is the problem under consideration? Why is government intervention necessary?

The Learning and Skills Council has found it increasingly necessary to operate at a regional level, or within a regional context. The statutory structure established in 2000, which included 47 local learning and skills councils, is no longer fit for purpose, due to changing demands and the need for stronger links between jobs, training and skills. The Act received Royal Assent on 23 October 2007. Section 2 of the Act provides for the establishment of regional learning and skills councils, of which there will be nine. These regulations are needed to give full effect to the provisions.

What are the policy objectives and the intended effects?

To bring forward Regulations which make provision about the regional councils, which include provisions about the membership of a regional council; the appointment of members, chairman and staff; and the delegation of regional council functions. The effect of these Regulations is to enable the LSC to have fully operational regional councils, with particular governance arrangements specified.

What policy options have been considered? Please justify any preferred option.

The status quo - provision about the LSC's 47 local councils remains prescribed in statute; and there is no clear move to a regional structure.

Legislation (preferred option) - the Act takes forward the Government's wider overall public sector reform agenda, including the reform and streamlining of the structure of the LSC, and responds to the Foster Report on the reform of the Further Education sector. Section 2 of the Act provides for the establishment of regional councils; this policy option gives them operational effect.

When will the policy be reviewed to establish the actual costs and benefits and the achievement of the desired effects?

The policy will be reviewed in the context of the Government's wider Machinery of Government changes.

Ministerial Sign-off For final proposal/implementation stage Impact Assessments:

I have read the Impact Assessment and I am satisfied that, given the available evidence, it represents a reasonable view of the likely costs, benefits and impact of the leading options.

Signed by the responsible Minister:

..... Date:

Summary: Analysis & Evidence	
Policy Option: Secondary Legislation	**Description: The Regional Learning and Skills Councils Regulations 2007**

COSTS

ANNUAL COSTS	Description and scale of **key monetised costs** by 'main affected groups'
One-off (Transition) **Yrs**	See narrative text on page 4.
£ -	
Average Annual Cost (excluding one-off)	
£ -	**Total Cost** (PV) **£** -

Other **key non-monetised costs** by 'main affected groups'

As above

BENEFITS

ANNUAL BENEFITS	Description and scale of **key monetised benefits** by 'main affected groups'
One-off **Yrs**	As above
£ -	
Average Annual Benefit (excluding one-off)	
£ -	**Total Benefit** (PV) **£** -

Other **key non-monetised benefits** by 'main affected groups'

As above

Key Assumptions/Sensitivities/Risks

As above

Price Base Year 0	Time Period Years 0	**Net Benefit Range** (NPV) **£** -	**NET BENEFIT** (NPV Best estimate)

What is the geographic coverage of the policy/option?				England	
On what date will the policy be implemented?				January 2008	
Which organisation(s) will enforce the policy?				DIUS & LSC	
What is the total annual cost of enforcement for these organisations?				£ N/A	
Does enforcement comply with Hampton principles?				Yes	
Will implementation go beyond minimum EU requirements?				N/A	
What is the value of the proposed offsetting measure per year?				£ N/A	
What is the value of changes in greenhouse gas emissions?				£ N/A	
Will the proposal have a significant impact on competition?				No	
Annual cost (£-£) per organisation (excluding one-off)	Micro N/A	Small N/A	Medium N/A	Large N/A	
Are any of these organisations exempt?	No	No	N/A	N/A	

Impact on Admin Burdens Baseline (2005 Prices) (Increase - Decrease)

Increase of £ N/A Decrease of £ N/A **Net Impact** **£** N/A

Key: **Annual costs and benefits:** **(Net) Present**

Evidence Base (for summary sheets)

[Use this space (with a recommended maximum of 30 pages) to set out the evidence, analysis and detailed narrative from which you have generated your policy options or proposal. Ensure that the information is organised in such a way as to explain clearly the summary information on the preceding pages of this form.]

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PROBLEM UNDER CONSIDERATION

1. Since its creation, the Learning and Skills Council (LSC) has found it increasingly necessary to operate at a regional level, or within a regional context. It recognised that the statutory structure established in 2000 is no longer fit for purpose, due to changing demands and the stronger links needed between jobs, training and skills.

2. The 2006 Further Education White Paper "Raising Skills and Improving Life Chances" [Cm 6768] re-enforced this. It noted that the current structure of 47 local LSCs needed to change, to be more able to respond to the needs of different geographical areas.

GOVERNMENT INTERVENTION

3. The regional structure provided for in the Further Education and Training Act 2007 depends on regulations making detailed provision about regional councils.

4. This is a necessary intervention as these Regulations are part of the public sector reform agenda. They will enable the LSC to restructure under the provision in section 2 and adapt to further change, and will ensure that the Further Education system as a whole is responsive to the needs of learners, employers and communities.

Consultation

5. The LSC was involved in developing both the Further Education White Paper and the subsequent Further Education and Training Bill. The LSC Chair himself proposed the changes to the structure of the LSC, following discussions with the LSC National Council. The Regulations make provision about matters such as the appointment of regional council members and delegation of regional council functions. Indicative membership of the regional councils was set out at Lords Second Reading on 13 December 2006 [Col: GC 329], and in addition, the Government tabled an amendment to the Act which provided for the insertion of section 152 (2B) into the Learning and Skills Act 2000, in turn providing that the first set of regulations about regional councils should be subject to approval of both the House of Lords and the House of Commons. The LSC have been fully consulted on the content of the Regulations.

POLICY OBJECTIVES AND INTENDED EFFECTS

6. This Impact Assessment analyses the possible impact of the Regulations, which make provision about the regional councils. The matters covered in these Regulations include the membership of a regional council; the appointment of members, chairman and staff; and the delegation of regional council functions.

7. The analysis first appeared as part of a wider Regulatory Impact Assessment (RIA) published for the then Further Education and Training Bill, which analysed the impact of the proposals within the Bill as a whole on businesses, charities, voluntary organisations and the public sector.

8. The purpose and intended effects of the Bill (now Act) have not changed, but the relevant part of the RIA is now re-presented, updated as appropriate and in the new format, as a stand alone document in respect of these Regulations only.

9. The effect of these Regulations is to enable the LSC to have fully operational regional councils with the necessary internal governance arrangements specified.

OPTIONS

10. **Option (i): the status quo -** The Learning and Skills Act 2000 places a statutory duty on the LSC to establish local learning and skills councils for areas of England specified by the Secretary of State. 47 such areas were specified and 47 local councils were established. Then, as part of the LSC's *Agenda for Change* programme in 2005, a new regional committee structure was created. Legislation is necessary to remove existing provision in the 2000 Act about local councils and provide for the establishment of regional councils. These regulations make specific provision about the regional councils' structure.

11. In pursuing the status quo option, the then Department for Education and Skills would have limited its own and the LSC's ability to respond positively to the Government's wider Public Sector Reform agenda, and to the recommendations in Sir Andrew Foster's report [1983-2005DOC-EN: November 2005] about reform of the Further Education sector. This is because the local council structure would have remained prescribed in statute, and there would have been no specific statutory basis for the regional council structure.

12. **Option (ii): the legislative option -** This would provide for the abolition of the 47 local learning and skills councils and their associated functions. It would streamline the National LSC, and give statutory underpinning to the new regional councils, of which it is proposed there will be nine, and to their associated functions.

13. Putting the detailed provision about regional councils into regulations will give the LSC flexibility over time by enabling it to respond to, and more rapidly accommodate, any machinery of government changes, without having to bring forward primary legislation.

14. These Regulations are the first to be made using the power in section 18A(2) of the Learning and Skills Act 2000 (as inserted by section 2 of the Further Education and Training Act 2007) making provision about regional councils.

COSTS, BENEFITS AND REVIEWS

Costs

15. The aim is to streamline the LSC, by removing the provision in the Learning and Skills Act 2000 about the structure of 47 local councils, and to strengthen the LSC's regional tier, one important aspect of which is bringing forward these regulations. Currently the 47 local learning and skills councils include some 750 non-executives, who represent business, local authorities, further and higher education institutions, trade unions, voluntary bodies, and other local interests. Under the proposed regulations, approximately 150 non-executives will be appointed to regional councils.

16. In its Annual Report and Accounts 2006-07 [HC 840: July 2007], the LSC updated its provisional costs in respect of its overall agenda for change programme, by adding a further £5.9m to the original figure of £55.7m contained in the LSC's Annual Report and Accounts 2005-06 [HC 1227: July 2006]. Note 15 to the Accounts for 2005-06 (Provisions for Liabilities and Charges) said that the majority of the provision of £55.7m to cover the costs of the re-organisation of the LSC related to the redundancy costs which were estimated based on the number of posts in the new structure. The premises element of the

provision was the best available estimate based on independent professional property advice. The additional £5.9m costs are mainly as a result of additional premises expenditure incurred.

Benefits

17. Removing the statutory provision about local councils, of which there are 47, and providing for the establishment of new regional councils, of which there will be nine, will significantly reduce the bureaucratic burden on the LSC and streamline its operations. In addition, the LSC will be establishing around 150 small local "partnership" teams (approximately one per local authority), which means that the LSC will be able to be more responsive to the individuals, employers and communities that it serves.

18. Once completed, the re-structuring of both the management and the non-executive parts of the LSC will release up to £40m in savings per annum. The LSC will then be operating with a reduced administrative cost, and will be able to plough these savings back into supporting front-line activity and purchasing more provision. An example of how the savings have been invested is the further expansion of Apprenticeships for Adults planned for 2007/08, funded through efficiency savings as a result of the restructuring of the LSC.

19. There will also be a positive benefit on the wider public sector. As part of establishing local partnership teams the LSC is also creating a new relationship with FE providers which will impact positively on the sector. Through this change, each college and training provider will have a single named strategic partner in the LSC, who will co-ordinate both the relationship and all discussions with the LSC, thus bringing positive benefits to providers.

Net Present Value

20. These regulations support the FET Act 2007, and the Act is expected to lead to the costs and benefits detailed in the sections above. These Regulations are an important component to support the changes that will enable the identified costs and savings to be made. However, it is not appropriate to apportion out the costs and benefits which relate to these specific Regulations as it is their application, in tandem with wider changes in the Act and other changes, that will enable the identified benefits to be realised.

Enforcement, sanctions and monitoring

21. These will be managed as appropriate through the existing DIUS/LSC accountability mechanisms that have been agreed by Ministers. Regulations 3, 4, and 5 also make detailed provision about the holding and vacation of office as a member or chairman of a regional council.

Implementation and Delivery Plan

22. This will be taken forward as part of this accountability framework.

Post Implementation Review

23. This will be managed as appropriate through the existing DIUS/LSC accountability mechanisms that have been agreed by Ministers and in the wider context of the work on the Machinery of Government changes.

SPECIFIC IMPACT TESTS

Competition Assessment

24. This assessment was done for provisions in the FET Act where appropriate, as part of the wider RIA, but is considered not to be appropriate for the LSC restructuring provisions.

Small Firms Impact

25. The Regulations make provision about regional councils. In addition, the LSC will be establishing around 150 LSC local partnership teams, which means that the LSC is able to be more responsive to the individuals, employers and communities that it serves. Therefore, the overall impact of the Regulations on small firms is judged to be positive.

Legal Aid

26. Not applicable.

Sustainable Development

27. The LSC's new regional tier will be supported by some 150 LSC local partnership teams. These will bring the LSC closer to the individuals, employers and communities that it serves.

Carbon Assessment

28. Not applicable.

Other Environment

29. Not applicable.

Health Impact Assessment

30. Not applicable.

Race

31. A separate Race Equality Impact Assessment (REIA) was published in respect of the proposals outlined in the Further Education White Paper. A supplementary REIA was published alongside the Bill itself.

Disability

32. A Disability Equality Impact Assessment is underway.

Gender

33. A Gender Equality Impact Assessment is underway.

Equality and Diversity

34. Recruitment to the new regional councils is seen as a positive opportunity to ensure that the membership of the councils reflects the diversity of the communities they serve. At Lords Grand Committee on 23 January 2007 [Col: GC 329] the Minister set out his expectation that the LSC regional councils would contain members from the private, public and third sectors.

Human Rights

35. This was given full consideration. Both Lord Andrew Adonis and Alan Johnson made statements on the introduction of the Bill into the Lords and Commons respectively, that provisions in the Bill were compatible with the European Convention on Human Rights.

Rural Proofing

36. See Sustainable Development above.

SUMMARY

37. The purpose of these Regulations is to make provision about regional councils on matters such as membership, appointments of members, chairman and staff, remuneration, and delegation of regional council functions. These Regulations are a small but important part of the public sector reform agenda. They are inextricably linked to the Further Education reform agenda, and the provisions in the FET Act 2007, and therefore it is only fully meaningful to see them in the context of the wider whole.

Specific Impact Tests: Checklist

Use the table below to demonstrate how broadly you have considered the potential impacts of your policy options.

Ensure that the results of any tests that impact on the cost-benefit analysis are contained within the main evidence base; other results may be annexed.

Type of testing undertaken	***Results in Evidence Base?***	***Results annexed?***
Competition Assessment	Yes	No
Small Firms Impact Test	Yes	No
Legal Aid	Yes	No
Sustainable Development	Yes	No
Carbon Assessment	Yes	No
Other Environment	Yes	No
Health Impact Assessment	Yes	No
Race Equality	Yes	No
Disability Equality	Yes	No
Gender Equality	Yes	No
Human Rights	Yes	No
Rural Proofing	Yes	No

Annexes

None