EXPLANATORY MEMORANDUM TO

THE EDUCATION (ADMISSIONS APPEALS ARRANGEMENTS) (ENGLAND) (AMENDMENT) REGULATIONS 2009
2009 No. 25

1. 1.1 This explanatory memorandum has been prepared by the Department for Children, Schools and Families and is laid before Parliament by Command of Her Majesty.

1.2 This memorandum contains information for the Joint Committee on Statutory Instruments.

2. Purpose of the instrument

2.1 These Regulations make one amendment to the Education (Admissions Appeals Arrangements) (England) (Amendment) Regulations 2008 (S.I. 2008/3092), to correct the commencement provision contained in regulation 1(2) of those Regulations.

2.2 The explanatory memorandum to the 2008 Regulations, which will come into force on 10th February 2009, contains information about those Regulations which are relevant background to this instrument .

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

3.1 This instrument, and the 2008 Regulations it amends, will come into force on 10th February 2009. They are made under provisions of the School Standards and Framework Act 1998 which are amended by the Education and Skills Act 2008 with effect from 26th January 2009 (the amending provisions in the Education and Skills Act are commenced by the Education and Skills Act 2008 (Commencement No. 1 and Savings) Order 2008 (S.I.2008/3077)).

3.2 The Department relies on section 13 of the Interpretation Act 1978 in making this instrument, as in making the 2008 Regulations.

4. Legislative Context

4.1 A revised School Admission Appeals Code was laid in draft before each House of Parliament under section 85 of the School Standards and Framework Act 1998 on 4th December 2008. It is intended that, unless a debate is held and it is voted against, the Code will be brought into force on 10th February by an appointed day order and will apply to appeals heard on or after that date.

4.2 The Education (Admissions Appeals Arrangements) (England) (Amendment) Regulations 2008 amend the Education (Admissions Appeals Arrangements) (England) Regulations 2002 (S.I.2002/2899) in light of the new right of children to appeal admission decisions, introduced by the Education and Skills Act. Those changes will apply in relation to appeals against admission decisions communicated to parents on or after 1st March 2010 in respect of admission to maintained schools in England in the school year 2010-2011 and subsequent years.

4.3 The 2008 Regulations also amend the 2002 Regulations by substituting a new regulation 6 which clarifies the extent to which the legality of a school's admission arrangements may be taken into account by an independent appeals panel. That change, and a further minor change, are intended to apply to all appeals heard on or after 10th February 2009. These Regulations amend the commencement provision in regulation 1(2) of the 2008 Regulations to give effect to that intention.

5. Territorial Extent and Application

5.1 This instrument applies to 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 These Regulations correct an error in the Education (Admissions Appeals Arrangements) (England) (Amendment) Regulations 2008 and bring the application of those Regulations into line with the proposed application of the new School Admission Appeals Code.

- ***Consolidation***

7.2 Given the minor amendment being made by this Instrument it is not thought appropriate to take this opportunity to consolidate these Regulations.

8. Consultation outcome

8.1 Please see the Explanatory Memorandum to the Education (Admissions Appeals Arrangements) (England) (Amendment) Regulations 2008.

9. Guidance

9.1 Please see the Explanatory Memorandum to the Education (Admissions Appeals Arrangements) (England) (Amendment) Regulations 2008.

10. Impact

10.1 None.

11. Regulating small business

11.1 The legislation does not apply to small business.

12. Monitoring & review

12.1 Not relevant.

13. Contact

13.1 Questions regarding this instrument should be directed to Mr Arun Arul at the Department for Children, Schools and Families, Tel: 020 7340 8104 or e-mail: fair.access@dcsf.gsi.gov.uk.