EXPLANATORY MEMORANDUM TO

THE EDUCATION (INFORMATION ABOUT INDIVIDUAL PUPILS) (ENGLAND) (AMENDMENT) REGULATIONS 2007

2007 No. 3373

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

2. Description

This instrument defines an additional item of individual pupil information to be collected from maintained schools in any future School Census.

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

None

4. Legislative Background

This instrument amends the Education (Information about Individual Pupils) (England) Regulations 2006 (S.I. 2006/2601, "the 2006 Regulations") and prescribes additional information that schools must provide for pupils in 2008. In addition to the items specified in the 2006 Regulations, schools must also provide:

> A Service Child indicator to identify a child who lives with a parent, step-parent, parent's civil partner or a person with parental responsibility, who is a current member of the regular armed forces and has been assigned Personal Status Category 1 or 2 by the Secretary of State for Defence.

The Ministry of Defence are working to improve the educational achievement of children of service personnel, and wish to compare their achievements with those of their peers. DCSF will provide aggregate comparison data to the Ministry of Defence.

5. Territorial Extent and Application

This instrument applies to England.

6. European Convention on Human Rights

As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

7. Policy background

7.1 Much of this policy background information was included in the Explanatory Memorandum to the 2006 Regulations, but some of it is included again here as it is still relevant to these Regulations.

7.2 The Census is one of DCSF's largest and most complex data collection exercises. Nursery, Primary, Primary Deemed Middle, Middle, Middle Deemed Secondary, Secondary including City Technology Colleges (CTCs); Academies; Special schools; and Non Maintained Special Schools (NMSS) are required to submit an electronic return, including a named pupil record. Service Children's Education (Secondary) schools will provide returns on a voluntary basis.

7.3 The provision by schools of individual pupil information is a statutory requirement by virtue of these Regulations, which are made under Section 537A of the Education Act 1996. Pupils are not given the option not to supply data for collection in the Census.

7.4 In January 2005, the Service Children in State Schools (SCISS) working group was established jointly by DCSF's predessor, the Department for Education and Skills (DfES) and the Ministry of Defence (MOD), with the secretariat being provided by the Children's Education Advisory Service (CEAS) agency of the MOD, to address concerns about a lack of knowledge of the range of issues that affect the education of Service children in maintained schools in England. It was set up to provide an opportunity for head teachers and local authority officers, from schools and areas with large numbers of Service personnel, to advise DfES and MOD about the issues that particularly affect these children and the schools that have a high proportion of children from Service families.

7.5 SCISS followed up an information gathering exercise conducted by CEAS in 2004, at the request of the then Secretary of State for Education, which involved schools in England with large numbers of Service children in identifying the key issues for their schools at a series of regional meetings, attended by DfES officials. This identified two main concerns for schools:

- the need to identify Service children in the School Census to establish the number of these pupils in each school. This would facilitate research into the problems faced by Service children, allowing trends to be recognised and, possibly, resources targeted more effectively; and

- the need of those schools that have high numbers of children from Service families for additional funding to address the problems of high mobility and the emotional needs of some of these children. Mobility, especially in the two years before GCSE exams are taken, can have a significant impact on pupil achievement.

7.6 As well as using the data for research purposes and informing policy development, Local Authorities are allowed to take account of mobility in their funding formulae for schools.

7.7 The prime function of the Census is reporting pupil numbers (and thus funding entitlements). Each year requests are made for new data items to be added to the Census as well as for amendments or deletions of existing data. These requests are considered in consultation with LA and school representatives, and the DCSF Star Chamber Board who make recommendations on which additional items should be included in the Census. The Data Services Group (DSG) Delivery Board make a final decision which is submitted to Minsters for their agreement.

7.8 No formal commissioning process was undertaken for the 2008 Census and the only addition item for inclusion in the 2008 Census was that itemised in paragraph 4.1. There were no requests for items to be deleted although a number of requests for items to be included were either rejected or deferred.

7.9 The School Census pupil level data is transferred to the DCSF from the schools' management information systems (MIS). As part of a general review of the market for schools' MIS, British Education Communications and Technology Agency (BECTA) proposed a two-year period in which there would be minimal changes to the Census and during this year and next there will be no commissioning process to keep changes to School Census to a minimum.

7.10 The Department has individual pupil data from 2002 (the first year of the full electronic pupil level collection from schools) and this pupil level data is a key component within the National Pupil Database (NPD). The NPD consists of Census data (as collected under these regulations) matched to attainment data (such as the results of key stage and external qualifications) and publications such as RaiseOnline and is used for research and statistical purposes, to inform, influence and improve education policy and to monitor the performance of the education service as a whole.

7.11 The DCSF will also provide Ofsted with pupil level data for use in school inspections and where relevant, pupil information may also be shared with post-16 learning institutions to minimise the administrative burden on applications for a course and to aid the preparation of learning plans.

7.12 In respect of the purposes for which DCSF use the data, and to whom it is disclosed, the Explanatory Memorandum to S.I. 2006/2601 sets this out in detail. The use of the additional data item to be provided under these Regulations is explained in paragraph 4.

7.13 Because pupil level data is relatively new, our intention to data has been to retain all pupil level data. The length of time for retention of the data will need to take into account relevant limitation periods for any possible legal action arising from the data collection or operation of the database containing the data collected.

8. Impact

A Regulatory Impact Assessment has not been prepared for this instrument as it has no impact on business, charities or voluntary bodies

9. Contact

Julia High at the Department for Children, Schools and Families, Tel: 020 7925 5156 or e-mail: Julia.high@dcsf.gsi.gov.uk can answer any queries regarding the instrument.