# EXPLANATORY MEMORANDUM TO

# THE EDUCATION (NUTRITIONAL STANDARDS AND REQUIREMENTS FOR SCHOOL FOOD) (ENGLAND) (AMENDMENT) REGULATIONS 2011

## 2011 No. 1190

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

## 2. Purpose of the instrument

2.1 To rectify an anomaly in the regulations governing school food which means that if maintained boarding schools serve the evening meal before 6.00pm, they are restricted as to what they can serve for dessert, whereas if they serve the meal at 6pm, there are no restrictions. This instrument will reduce bureaucracy and enable boarding schools to serve confectionery, snacks, cakes or biscuits with evening meals, regardless of the time the meal is served.

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

3.1 None

## 4. Legislative Context

4.1 The instrument is being made to remove the unintended consequences of the Education (Nutritional Standard and Requirements for School Food) (England) Regulations 2007 (the 2007 Regulations).

4.2 The 2007 Regulations impose nutritional standards and requirements in relation to school food and apply to all maintained schools in England, including maintained boarding schools. They state that all food provided before 6pm on a school day - other than as part of a school lunch - must comply with the requirements set out in Schedule 4. Paragraph 6 of Schedule 4 says that confectionery and snacks cannot be provided unless they meet the requirements set out in that paragraph and paragraph 7 says that cakes and biscuits cannot be provided at all.

## 5. Territorial Extent and Application

5.1 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

- What is being done and why

7.1 There are approximately 150 maintained boarding schools, including residential special schools, in England. These schools have experienced the unintended consequences of the 2007 Regulations in relation to which desserts they are permitted to serve with an evening meal, where the meal is served before 6pm. In the light of approaches to the Department for Education from boarding schools seeking a relaxation of these restrictions (in so far as they impact upon the types of dessert that may be served with the evening meal), this instrument will now permit boarding schools to serve confectionery or snacks which do not meet the requirements set out in paragraph 6 of Schedule 4 and cakes or biscuits contrary to the prohibition in paragraph 7 that would otherwise apply, if they are served as part of the evening meal, even where the evening meal is served before 6pm.

7.2 In response to consultation on the change introduced by this instrument, no objections were expressed. Beyond the schools affected, there is very limited public interest in this issue.

- Consolidation

7.3 Not applicable.

## 8. Consultation outcome

8.1 In view of the limited number of schools affected by the proposed change and the fact that this instrument does not impose any new nutritional standards or requirements on any maintained school, the consultation period was restricted to a three week period. The Boarding Schools' Association, which represents all maintained boarding schools, and all residential special schools were consulted. There were no objections to the proposals from any school. The Association, having lobbied for the change, deemed it to be 'eminently sensible'.

## 9. Guidance

9.1 As the change is very straight forward to implement, there is no need for guidance. Schools affected will be informed of the implementation date by email and it will also be publicised on the School Food Trust web site.

## 10. Impact

10.1 There will be no impact on business, charities or voluntary bodies as the possible sale of additional products and desserts will be negligible due to the small number of schools affected and their wide geographical spread.

10.2 The impact on the public sector will fall to school caterers and procurers of school food in boarding schools. The change brings no additional burdens; it reduces bureaucracy and makes procurement easier. There are no cost implications for schools.

10.3 An Impact Assessment has not been prepared for this instrument.

## 11. Regulating small business

11.1 The legislation does not apply to small businesses.

## 12. Monitoring & review

12.1 The change introduced by this instrument will give boarding schools and their pupils more choice of dessert with their evening meals and reduce bureaucracy. There is no need to monitor or review take up.

## 13. Contact

Lis Warren at the Department for Education Tel: 020 7340 7117 or email: lis.warren@education.gsi.gov.uk can answer any queries regarding the instrument.