EXPLANATORY MEMORANDUM TO THE

EDUCATION (PROHIBITION FROM TEACHING OR WORKING WITH CHILDREN) (AMENDMENT) REGULATIONS 2004

2004 No. 1493

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

2. Description

This instrument adds various offences under the Sexual Offences Act 2003 and one offence under the Criminal Justice Act 1988 to Schedule 2 of the Education (Prohibition from Teaching or Working with Children) Regulations 2003 with effect from 19 July 2004.

3. Legislative Background

The instrument is being made to take account of new offences contained in the Sexual Offences Act 2003, which came into force on 1 May 2004, and to correct an omission from the Education (Prohibition from Teaching or Working with Children) 2003 Regulations.

4. Extent

This instrument applies to England and Wales.

5. Policy background

5.1 Section 142 of the Education Act 2002 gives the Secretary of State the power to issue directions barring or restricting a person from providing education or carrying out work which brings them into regular contact with children under the age of 18. Section 142 also gives him the power to make regulations prescribing the procedure for giving directions.

5.2 Regulation 8(1)(a) of the Education (Prohibition from Teaching or Working with Children) Regulations 2003 provides for a person to be prohibited automatically from carrying out work to which section 142 of the 2002 Act applies if he is convicted of an offence, set out in Schedule 2 of the Regulations, involving a child under 16 if he was aged 18 or over when the offence was committed and he was carrying out such work, or had previously carried out such work, when the offence was committed or he was convicted.

5.3 This instrument adds various offences under the Sexual Offences Act 2003 to the list of offences in England and Wales currently contained in Schedule 2 of the 2003 Regulations, and one offence under the Criminal Justice Act 1988 (possession of indecent photograph of a child), which was unintentionally omitted from the 2003 Regulations.

5.4 Part 1 of the Sexual Offences Act makes new provision about sexual offences and repeals, revokes or amends most of the offences in England and Wales which are currently contained in Schedule 2 to the Regulations. The current

offences are being retained, as cases involving convictions under these provisions may come to light in future years.

5.5 There has been no consultation on the content of this instrument as it is not controversial. Automatic barring was first introduced in 1995 and has the support of employers in the education service and the teaching unions. There is unlikely to be public interest in the instrument.

6. Impact

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

7. Contact

Anne Hunter at the Department for Education and Skills, Tel: 01325 392129 or e-mail: Anne.Hunter@dfes.gsi.gov.uk, can answer any queries regarding the instrument.