EXPLANATORY MEMORANDUM TO

THE EDUCATION (SCHOOL DAY AND SCHOOL YEAR) (ENGLAND) (AMENDMENT) REGULATIONS 2023

2023 No. 174

1. Introduction

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

2. Purpose of the instrument

2.1 These Regulations amend the Education (School Day and School Year) (England) Regulations 1999 ("the 1999 Regulations") to reduce the minimum number of times a school maintained by a local authority, or a special school not maintained by a local authority, in England is required to meet in the current school year from 380 to 376 sessions. In most schools this will equate to a reduction of two days. This will enable those schools to close on the additional bank holidays for the funeral of Her Majesty Queen Elizabeth II and the coronation of His Majesty King Charles III in the 2022/23 academic year without having to open on additional days to compensate.

3. Matters of special interest to Parliament

Matters of special interest to the Joint Committee on Statutory Instruments

3.1 None.

4. Extent and Territorial Application

4.1 The territorial extent of this instrument (that is, the jurisdiction(s) which the instrument forms part of the law of) is England and Wales.

4.2 The territorial application of this instrument (that is, where the instrument produces a practical effect) is England.

5. European Convention on Human Rights

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

6. Legislative Context

6.1 The 1999 Regulations require schools in England maintained by local authorities and special schools in England not maintained by local authorities to hold at least 380 sessions in every school year. Except in certain circumstances, there must be two sessions in every school day, so in most schools this means a minimum of 190 school days in the year.

6.2 This instrument amends the 1999 Regulations to reduce that number for the school year 2022/23 from 380 to 376 sessions. This will enable those schools to close for two additional bank holidays without falling short of the required number of sessions in the school year. Academy trusts (of academies and free schools) are not bound by the 1999 Regulations. The 1999 Regulations also do not apply to pupil referral units,

because of paragraph 2 of Schedule 2 to the Education (Pupil Referral Units) (Application of Enactments) (England) Regulations 2007 (S.I. 2007/2979).

6.3 Similar amendments were made by the Education (School Day and School Year) (England) (Amendment) Regulations 2010 (S.I. 2010/604) for the wedding of the Duke and Duchess of Cambridge, the Education (School Day and School Year) (England) (Amendment) Regulations 2011 (S.I. 2011/154) for Her Majesty Queen Elizabeth II's Diamond Jubilee and the Education (School Day and School Year) (England) (Coronavirus) (Amendment) Regulations 2021 (S.I. 2021/541) for Her Majesty Queen Elizabeth II's Platinum Jubilee. The School Teachers' Pay and Conditions Document is separate from these regulations.

6.4 Provision as to the minimum number of sessions in a school year in Wales is made in the Education (School Day and School Year) (Wales) Regulations 2003 (S.I. 2003/3231) and the Welsh Government is planning to amend those Regulations for the additional public holidays in the 2022/23 academic year.

7. Policy background

What is being done and why?

7.1 Section 551 of the Education Act 1996 gives the Secretary of State power to make provision about the length of the school year in schools maintained by local authorities and special schools not maintained by local authorities. Using that power, the 1999 Regulations require a minimum of 380 sessions in a school year in England. This ensures a consistent minimum number of days of education for pupils at those schools.

7.2 If, however, the term dates for such a school have been fixed in a way that means the school will hold no more than 380 sessions in a school year, and a new public holiday is declared after the term dates have been fixed, this can make it difficult or impossible for the school to close for the new public holiday without breaching the 1999 Regulations.

7.3 On 10 September 2022, the Government declared a public holiday to be held on 19 September 2022 to enable the public to mark the funeral of Her Majesty Queen Elizabeth II.

7.4 On 6 November 2022, the Government declared a public holiday to be held on 8 May 2023 to enable the public to celebrate the coronation of His Majesty King Charles III, which is due to take place on Saturday 6 May 2023.

7.5 It is right that children, parents, and school staff are able to observe these holidays, and they might have been prevented from doing so if their schools were unable lawfully to close for the extra days. Therefore, these Regulations reduce the minimum length of the school year for 2022/23 only, to avoid such problems. The Government is confident that schools, parents, and children can work together to ensure that children's education is not unduly affected by an extra two days of absence.

8. European Union Withdrawal and Future Relationship

8.1 This instrument does not relate to withdrawal from the European Union / trigger the statement requirements under the European Union (Withdrawal) Act.

9. Consolidation

9.1 There are currently no plans to consolidate the 1999 Regulations.

10. Consultation outcome

10.1 There was no consultation in relation to these Regulations.

11. Guidance

11.1 No guidance is needed as the instrument imposes no new obligations on schools.

12. Impact

12.1 There is no, or no significant, impact on business, charities or voluntary bodies.

12.2 There is no, or no significant, impact on the public sector.

12.3 A full Impact Assessment has not been prepared for this instrument because of the low level of impact.

13. Regulating small business

13.1 The legislation does not apply to activities that are undertaken by small businesses.

14. Monitoring & review

14.1 This is a one-off reduction in the minimum length of the school year and there are therefore no plans to monitor or review it.

15. Contact

15.1 Emma Morley at the Department for Education, email: emma.morley@education.gov.uk can be contacted with any queries regarding the instrument.

15.2 Jacquie Spatcher, Deputy Director for Pupil Premium and Curriculum Support Division at the Department for Education can confirm that this Explanatory Memorandum meets the required standard.

15.3 The Rt Hon Nick Gibb MP, Minister of State for Schools at the Department for Education can confirm that this Explanatory Memorandum meets the required standard.