EXPLANATORY MEMORANDUM TO

THE EDUCATION (SCHOOL DAY AND SCHOOL YEAR) (ENGLAND) (CORONAVIRUS) (AMENDMENT) REGULATIONS 2021

2021 No. 541

1. Introduction

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

2. Purpose of the instrument

The purpose of this instrument is to allow schools in England to have held an extra In Service Training ('INSET') day to help teachers train and prepare for coronavirus testing in schools on 4 January 2021 without being at risk of breaching their statutory duties, and to make provision for the additional bank holiday on 3 June 2022 to celebrate the Platinum Jubilee of Her Majesty the Queen.

3. Matters of special interest to Parliament

Matters of special interest to the Joint Committee on Statutory Instruments

None.

Matters relevant to Standing Orders Nos. 83P and 83T of the Standing Orders of the House of Commons relating to Public Business (English Votes for English Laws)

As the instrument is subject to negative resolution procedure there are no matters relevant to Standing Orders Nos. 83P and 83T of the Standing Orders of the House of Commons relating to Public Business at this stage.

4. Extent and Territorial Application

The territorial extent of this instrument is England and Wales.

The territorial application of this instrument is England.

5. European Convention on Human Rights

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

6. Legislative Context

The Education (School Day and School Year) (England) Regulations 1999 ('the 1999 Regulations') require schools maintained by local authorities and special schools not maintained by local authorities to meet for at least 380 sessions every academic year. This instrument amends the 1999 Regulations to reduce that number for the academic year 2021/22 from 380 to 378 sessions. It also provides that in the academic year 2020/21 the school can be treated as having met for up to two sessions even if those sessions were devoted to training teachers in preparation for coronavirus testing at the school.

7. Policy background

What is being done and why?

The instrument allows schools in England to hold the extra INSET day on 4 January 2021 without being at risk of breaching their statutory duties, and to make provision for the additional bank holiday on 3 June 2022 to celebrate the Platinum Jubilee of Her Majesty the Queen.

The amendment relating to the academic year 2020/21 is for schools that held an additional INSET day on 4 January 2021. The Secretary of State announced this optional additional INSET day in December 2020 to help teachers train and prepare for coronavirus testing in schools. Following the announcement some schools did not hold teaching sessions on the 4 January. The Secretary of State stated there was no expectation for schools to make up these missed sessions. This amendment, therefore, will ensure that schools do not breach their statutory duty.

The reduction in the minimum number of sessions in the academic year 2021/22 is to enable schools to close for the additional bank holiday on 3 June 2022 to celebrate the Platinum Jubilee of Her Majesty the Queen. In line with Department of Digital, Culture, Media and Sport's announcement on 12 November 2020 setting out that there would be an extra bank holiday, all schools will be able to close on 3 June 2022. There are no expectations for schools to make up these sessions. The amendment to regulations will mean that schools will not be at risk of breaching their statutory duty to meet for 380 sessions.

These proposed changes are similar to previous amendments- for example, the Diamond Jubilee (5 June 2012) and the wedding of the Duke and Duchess of Cambridge (29 April 2011) - where reductions to the number of sessions were made. The Education (School Day and School Year) (England) (Amendment) Regulations 2010 gave schools delivering the primary curriculum an extra day to use for teacher training day by treating them as having met for two sessions. The School Teachers' Pay and Conditions Document is separate from these regulations.

8. European Union (Withdrawal) Act/Withdrawal of the United Kingdom from the European Union

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

9. Consolidation

The department currently has no plans to consolidate the 1999 Regulations.

10. Consultation outcome

There is no statutory duty to consult on the contents of this instrument. We have discussed our approach with school leaders, local authority representative bodies as part of the policy making process and informal consultations and they agree with our approach.

11. Guidance

The department does not propose to issue any detailed guidance on the amendment.

This position will be communicated on the department's website and to relevant stakeholders so that schools and local authorities are able to make the necessary arrangements in good time.

12. Impact

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

The impact on the public sector is expected to be limited since they make it lawful for schools to take the public holiday already announced. Where additional arrangements are needed, for example in relation to school inspections or childcare, any adverse impact should be minimised by schools and local authorities giving as much notice as possible about their local arrangements.

An Impact Assessment has not been prepared for this instrument because no adverse impact upon the private or voluntary sectors is foreseen.

13. Regulating small business

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

14. Monitoring & review

The approach to monitoring of this legislation is that the department does not gather data on the number of sessions for which schools are open in a year, but we know that some schools held an INSET day on the 4 January 2021, and it is expected that all maintained schools will take advantage of the reduced academic year 2021/22, which will enable them to benefit from the bank holiday.

The regulation does not include a statutory review clause.

15. Contact

Marcus Lea at the Department for Education, email: marcus.lea@education.gov.uk can be contacted with any queries regarding the instrument.

Charles Lang, Deputy Director for Behaviour, Attendance, Exclusion and Alternative Provision Division at the Department for Education can confirm that this Explanatory Memorandum meets the required standard.

Nick Gibb MP, Minister of State for School Standards at the Department of Education can confirm that this Explanatory Memorandum meets the required standard.