EXPLANATORY MEMORANDUM TO

THE EDUCATION (SCHOOL INSPECTION ETC.) (ENGLAND) (AMENDMENT) REGULATIONS 2008

2008 No. 1723

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

2. Description

2.1 The Regulations amend the Education (School Inspection) (England) Regulations 2005 so as to prescribe in detail the cases where a school may charge for providing a copy of an inspection report.

2.2 The Regulations also amend the Education (Investigation of Parents' Complaints) (England) Regulations 2007 so as to provide for a complaint about the contribution made by the school to community cohesion to qualify for investigation by Ofsted.

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

3.1 Regulation 2 responds to the Ninth Report of the Committee for the Session 2005/6 and provides the elucidation required by the Committee as set out in paragraph 7.2 below.

4. Legislative Background

4.1 The amendments are the first to be made to both the Education (School Inspection) (England) Regulations 2005 (S.I. 2005/2038) and the Education (Investigation of Parents' Complaints) (England) Regulations 2007 (S.I. 2007/1089). The former Regulations make provision about the inspection of schools to which section 5 of the Education Act 2005 applies which include schools maintained by local authorities and Academies. The latter Regulations prescribe various matters about the handling by Ofsted of complaints by parents about schools to which section 5 of the 2005 Act applies.

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

7.1 Schools have a statutory obligation to provide registered parents with a copy of the routine Ofsted inspection report for their child's school free of charge.

7.2 Schools must also provide a copy of the report to any person who asks for one. This may be provided free of charge or in prescribed cases a school may charge a fee which does not exceed the cost of supply. The current Regulations, which took effect in September 2005, provide that a fee may be charged in all cases. This provision has not generated enquires from schools or others. However in the interests of clarity Regulation 2 amends the current Regulations so as to prescribe specifically the cases where a school may charge. These are (a) where a registered parent requests a further copy of the report and (b) where anybody else requests a copy of the report from the school.

7.3 Ofsted's Chief Inspector has discretionary powers to investigate and respond to certain complaints from parents about provision in their child's school. The powers cover community, foundation and voluntary schools; community and foundation special schools; maintained nursery schools; Academies; city technology colleges; city colleges for the technology of the arts; and non-maintained special schools. They are intended to deal with complaints about general matters relating to Ofsted's school inspection remit for those schools. They are not intended to cover specific issues relating to an individual child.

7.4 The current Regulations, which came into force in April 2007, set out the areas which qualify for investigation. These are as follows:

(a) the quality of the education provided in the school;
(b) how far the education provided in the school meets the needs of the range of pupils at the school;
(c) the educational standards achieved in the school;
(d) the quality of the leadership in and management of the school, including whether the financial resources made available to the school are managed effectively;
(e) the spiritual, moral, social and cultural development of the pupils at the school; and
(f) the contribution made by the school to the well-being of those pupils.

These areas link directly to those which Ofsted is required to cover during school inspection under section 5(5) (a) to (f) of the Education Act 2005.

7.5 From September 2008, Ofsted's school inspection remit will be extended to cover the contribution made by schools to community cohesion under a duty imposed by section 5(5)(g) of the Education Act 2005 which was inserted by section 154 of the Education and Inspections Act 2006. Regulation 3 adds the contribution made by the school to community cohesion to the areas which qualify for investigation. This amendment maintains the alignment between Ofsted's school inspection remit and Ofsted's parental complaint remit.

7.6 As both of these changes are effectively technical, no consultation took place. Both changes are minor so no consolidation is planned at this stage.

8. Impact

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

8.2 Regulation 2 clarifies the circumstances where schools may charge a fee for providing a copy of an inspection report. It does not place additional requirements on either schools or those requesting a copy of a report.

8.3 Regulation 3 extends the areas on which parents may complain to Ofsted in relation to their child's school. This may potentially lead to additional investigations by Ofsted. However the arrangements for considering complaints have been designed to provide the Chief Inspector with discretion in relation to the cases that Ofsted investigates. This enables Ofsted to adopt a proportionate approach.

8.4 Maintained schools have been required to promote community cohesion since September 2007 and from September 2008 Ofsted will be inspecting this.

9. Contact

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