EXPLANATORY MEMORANDUM TO

THE EDUCATION (SCHOOL PERFORMANCE INFORMATION) (ENGLAND) (AMENDMENT) REGULATIONS 2006

2006 No. 2896

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

This memorandum contains information for the Select Committee on Statutory Instruments.

2. Description

2.1 This statutory instrument amends the Education (School Performance Information) (England) Regulations 2001 for the purpose of requiring schools to provide additional information to the Secretary of State concerning certain personal characteristics of Key Stage 4 pupils' and their National Curriculum marks level data attained at Key Stage 2. The amendments also make changes to the Special Educational Needs categories reported at Key Stage 2, Key Stage 3 and Key Stage 4 [as well as the removing the requirement for schools to provide information on excluded pupils to their Local Authorities].

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

3.1 None.

4. Legislative Background

4.1 These amending regulations reflect final decisions made by the Secretary of State for Educations and Skills on the content of the 2006 Achievement and Attainment Tables. The main amendments update the information that schools are required to provide the Secretary of State in order to calculate various indicators published in the tables.

4.2 A Key Stage 2 - 4 Contextual Value Added (CVA), measuring the progress made by a pupil between each Key Stage, is being introduced in to the Secondary (KS4) Achievement and Attainment Tables. The calculation of this measure requires detailed information about individual pupils and the marks supporting the pupil's National Curriculum test level. These amendments will require schools to provide the Secretary of State with information on all pupils, including those not entered for exams, and the National Curriculum test marks to enable the publication of CVA in the Achievement and Attainment Tables.

4.3 The Post - 16 Achievement and Attainment Tables will include all Level 3 qualifications approved under section 98 of the Learning and Skills Act 2000 for the

purposes of section 96 of that Act. The amendments made will require maintained schools, non-maintained special schools and independent schools to provide the Secretary of State with information on all approved Level 3 qualifications and remove specific references to A/AS examinations, Key Skills at Level 3 and the International Baccalaureate.

4.4 Special Educational Needs (SEN) - information on SEN previously reported pupils with statements of SEN separately to those without statements (supported by school action and school action plus).The amendment requires all primary and secondary schools to provide information on pupils with statements of SEN and pupils supported by school action plus as one category; and pupils supported by only school action as a separate category.

4.5 Primary Academies - in 2004 the regulations were amended to include provision of Key Stage 2 data by primary Academies. The regulations, however, continued to refer to the governing bodies of maintained schools only. The amendment adds 'the proprietors of every Academy'

4.6 Excluded pupils – The provision of information from schools on pupils that have been permanently excluded is collected by the School Absence Census and the Pupil Level Annual School Census and the information passed to the Achievement and Attainment Tables. This amendment removes the requirement to provide information about permanently excluded pupils.

5. Extent

5.1 This instrument applies to England.

6. European Convention on Human Rights

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

7. Policy background

7.1 The school Achievement and Attainment Tables are published annually and contain information on the achievements of schools and colleges. The indicators published in the tables are based on information schools are required to provide to the Secretary of State through these regulations.

7.2 The regulations themselves are updated regularly in the light of decisions taken by the Secretary of State on the content of the tables in a particular year.

7.3 The main changes in the Tables this year are the introduction of a KS2 - KS4 CVA measure in the Secondary (KS4) Achievement and Attainment Tables, a change in the presentation of SEN information and the extension of the range of qualifications in the Post-16 Tables to include all approved Level 3 qualifications.

7.4 Contextual Value Added - in 2004 Ministers signalled the intention that a more sophisticated value added methodology be used for all Departmental and Ofsted purposes. A CVA measure has been developed which adjusts predicted achievement to take account of not only prior attainment, but also a range of other factors observed to impact on performance which are outside a school's control. Following the successful evaluation of a CVA pilot, which took place in 2005, and overwhelming support from schools a KS2 - KS4 CVA measure will be introduced in the Secondary (KS4) tables.

7.5 The KS2, KS3 and KS4 Achievement and Attainment Tables show information about pupils the number of pupils in a school with Special Educational Needs (SEN). The Tables previously reported pupils with statements of SEN separately to those without statements (supported by school action and school action plus).The presentation of this information has been changed to show information on pupils with statements of SEN and pupils supported by school action plus as one category; and pupils supported by only school action as a separate category. The change in presentation supports the use of SEN data in the Contextual Value Added methodology.

7.6 Proposed major changes to the 2006 Achievement and Attainment Tables were piloted with a selection of schools and colleges in 2005. Schools and colleges were invited to complete feedback questionnaires and attend evaluation conferences in January and February 2006. The Secretary of State's plans for the content of the 2006 tables was published in June 2006 on the Department's Achievement and Attainment Tables website and on the Teachernet website.

7.7 We are aware of the desirability to consolidate all the previous regulations since 2001 and will seek to do so in the near future. If it is possible to consolidate these Regulations within the next twelve months, we will do so.

8. Impact

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

9. Contact

9.1 Graeme Forster at the Department for Education and Skills Tel: 020 7925 5754 or e-mail: graeme.forster@dfes.gsi.gov.uk can answer any queries regarding the instrument.