EXPLANATORY MEMORANDUM TO

THE EDUCATION (SCHOOL TEACHER PERFORMANCE MANAGEMENT) (ENGLAND) REGULATIONS 2006

2006 No. 2661

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

2. Description

2.1 These Regulations make provision for the management and review of the performance of school teachers in the maintained sector by providing for the establishment and implementation of a performance management policy in all schools, the appointment of reviewers to devise, record and, where necessary, revise performance plans for teachers and to review the performance of teachers in the light of their plans, on an annual basis.

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 Regulations revoke the Education (School Teacher Appraisal) (England) Regulations 2001, and prescribe revised arrangements for the performance management of teachers (including head teachers) employed by governing bodies and local education authorities at maintained schools and other teachers employed by local education authorities ("unattached teachers"). The new Regulations also revoke regulation 9 of the Education (School Government)(Terms of Reference)(England) Regulations 2000 (The performance management policy) and prescribe revised arrangements for the establishment and implementation of the performance management policy. They are made under sections 21, 131 and 210 of the Education Act 2002.

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 Existing regulations have been in place since 2001 and although a large number of schools are working within them there are still others which are yet to put effective performance management procedures into place. This has implications for the professionalism of the workforce and also for the fairness and clarity of how pay decisions are made, as these should be based on performance.

7.2 The new Regulations revoke existing regulations and provide clearer, fairer and more consistent and coherent arrangements which are more closely integrated into other school processes. The new arrangements are intended to provide a non-bureaucratic, streamlined and multi-purpose process for assessing the totality of a teacher and head teacher's performance. The evidence collected through the performance management process will then be the sole source of evidence used to determine pay progression, where a teacher is eligible. It will be possible for schools to then reuse the information collected in this way for other purposes such as school improvement, thereby reducing their burdens of evidence collection. The revised arrangements also implement the recommendation of the School Teachers' Review Body that the outcome of teachers' professional development, and if appropriate, their contribution to others' development should be taken into account when schools assess performance for pay progression purposes.

7.3 In accordance with section 131(6) of the Education Act 2002, the Secretary of State consulted on an earlier draft of these Regulations (as well as a draft of the guidance which will be issued in support of these Regulations) for a period of 12 weeks from 7 June until 30 August . There were 268 responses, the majority of which supported the new procedures proposed. The main concerns were two-fold. The time for bringing these Regulations into force which has now been put back to the start of the autumn term in 2007 and the role of the reviewer of a teacher's performance and in particular who may perform that role and to what extent if any can the reviewer's duties be delegated to others. The Regulations now make clear that governing bodies are responsible for reviewing the performance of their head teachers, head teachers for reviewing the performance of their teachers and local education authorities for reviewing the performance of their unattached teachers, unless they exercise the power given to them to delegate these duties, in their entirety, to the teacher's line manager.

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.

8.2 The impact is on all school teachers as defined in section 122 of the Education Act 2002.

9. Contact

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