EXPLANATORY MEMORANDUM TO

THE NURSERY EDUCATION (INSPECTION) (ENGLAND) REGULATIONS 2005

2005 No. 2299

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 The regulations complete the new inspection regime for nursery education set out in the School Standards and Framework Act 1998 ("the 1998 Act") as amended by the Education Act 2005 ("the 2005 Act"). They prescribe the interval between inspections; that certain parents and authorities must be notified of inspections and provided with a copy of the report and the circumstances in which a fee may be charged for providing a copy of the report.

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

3.1 None.

4. Legislative Background

4.1 The regulations are the first use of the powers in section 122 and paragraphs 6A(1)(a), (4) and (5), and 13A(1)(b) and (2) of Schedule 26 to the 1998 Act as inserted by the Education Act 2005. These regulations revoke and re-enact with modifications the Nursery Education (England) Regulations 2000.

4.2 These regulations relate to the Day Care and Child minding (Inspection)(England) Regulations 2005 (which are being laid along with these regulations) and the Education (School Inspection) (England) Regulations 2005 (SI 2005/2038). They make similar changes in relation to the inspection of day care, child minding, and school inspection respectively. They align the interval between inspections for day care, child minding, nursery education and schools to within 3 years of the last inspection.

5. Extent

5.1 This instrument applies to England.

6. European Convention on Human Rights

No statement is required.

7. Policy background

7.1 The changes facilitated by these regulations form part of a wider policy objective to align the inspection frameworks covering the Chief Inspector's inspection of early years provision (child minding, day care and funded nursery education) and schools. A common inspection frequency of within three years is a key feature of this alignment, in order to facilitate better integration of early years inspections, and to allow the inspection of education and childcare to be carried out as a single inspection event. The inspection frequency of within three years allows the Chief Inspector to inspect child minding and day care more regularly where he considers it appropriate.

7.2 The new requirement on early years providers to notify and send parents a copy of the inspection report is consistent with arrangements applicable to school inspections. The policy intent is to ensure that parents of children attending early years settings, in schools or elsewhere, have the same rights to information regarding inspections.

7.3 These regulations formed part of the draft regulations published alongside the Education Act 2005 related Bill for scrutiny during its passage through parliament. We have also consulted over a 12 week period[1] with organisations and individuals that have an interest in the day care and childminding. 84% of respondents were supportive of these proposals. There were some concerns raised about the reduced inspection frequency from 2 to 3 years. The Government however is satisfied that the flexibility provided by these regulations, including Ofsted's inspection framework and complaint investigation activity, will ensure that these proposals will reduce the risk of harm to children.

8. Impact

8.1 A Regulatory Impact Assessment covering both this set and the Day Care and Child Minding(Inspection) (England) Regulations 2005 is attached to the memorandum covering the latter set of regulations.

9. Contact

Bolaji Bakrin at the Department for Education and Skills Tel: 020 7273 5670 or e-mail: bolaji.bakrin@dfes.gsi.gov.uk can answer any queries regarding the instrument.

---

[1] Early years regulations - http://www.dfes.gov.uk/consultations/conResults.cfm?consultationId=1305. Consultation closed on 24 June 2005.