EXPLANATORY MEMORANDUM TO

THE SCHOOL ADMISSIONS (ADMISSION ARRANGEMENTS AND CO-ORDINATION OF ADMISSION ARRANGEMENTS) (ENGLAND) (AMENDMENT) REGULATIONS 2022

2022 No. 105

1. Introduction

1.1 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

2.1 This Statutory Instrument ("SI") amends The School Admissions (Admission Arrangements and Co-ordination of Admission Arrangements) Regulations 2012 ("the School Admissions Regulations") to update Schedules 3 and 4 of the regulations which list representative bodies and persons ("religious bodies") and schools.

2.2 These religious bodies have certain functions relevant to admission arrangements for schools designated as having a religious character ("faith schools"). These amendments ensure that the list of religious bodies is up to date.

3. Matters of special interest to Parliament

Matters of special interest to the Joint Committee on Statutory Instruments

3.1 None.

4. Extent and Territorial Application

4.1 The territorial extent of this instrument is England and Wales.

4.2 The territorial application of this instrument is England only.

5. European Convention on Human Rights

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

6. Legislative Context

6.1 Maintained schools in England are designated as having a religious character by an order made by the Secretary of State under section 69(3) of the School Standards and Framework Act 1998 ("the SSFA"). Section 69(3) also applies to independent schools (including academies) by virtue of section 124B of that Act.

6.2 State-funded faith schools are permitted under the Equality Act 2010 to admit pupils based on their religion or religious belief when the school is oversubscribed[1].

[1] New academies (i.e. not converters from the maintained sector or sponsored academies with a predecessor school) and free schools with a religious character must allocate at least 50% of places without reference to faith when they are oversubscribed.

6.3 Through powers under section 84 of the SSFA the Secretary of State makes a School Admissions Code ("the Code"). The Code imposes requirements and includes guidelines setting out aims, objectives and other matters in relation to the discharge of school admissions functions by local authorities, governing bodies of maintained schools, appeal panels and schools adjudicators.

6.4 Not all faith schools have a religious body and there is no requirement for them to do so. Where a faith school does have a religious body, the Code requires the admission authority to consult the religious body on its faith-based admission arrangements and have regard to the religious body's guidance on faith admissions in general. If a faith school wishes to take account of religious activities in its admission arrangements (such as attendance at a place of worship), these must be specifically as laid out by the religious body for that school, insofar as the religious body's advice complies with the Code.

6.5 This SI is made under powers set out in sections 88C, 88E and 88F of the SSFA. Sections 88C and 88E provide that religious bodies must be notified of determined admission arrangements and of any subsequent variations. Section 88C contains a power to make regulations setting out who must be consulted on proposed admission arrangements before they are determined. Under section 88F of the SSFA the Secretary of State has the power to make regulations prescribing religious bodies for faith schools.

6.6 Regulation 34 and schedule 3 of the School Admissions Regulations specifies the bodies or persons that represent the religion or religious denomination in question for local authority-maintained faith schools. Where there is no one representative body that can represent the whole religion or religious denomination, the representative bodies for individual schools are listed in Schedule 4. This SI amends Schedule 3 and Schedule 4 of the School Admissions Regulations to ensure that they are up to date. The religious bodies for academy faith schools are specified in the academies' funding agreements rather than the School Admissions Regulations.

7. Policy background

What is being done and why?

7.1 The requirement for faith schools to consult their religious body serves to ensure that faith admission arrangements are in line with the principles or beliefs of the faith designation and to reduce unfair admissions practices such as prioritising children based on personal acquaintances, or the adoption of complex and opaque points-based admissions systems.

7.2 Since the School Admissions Regulations were last amended in 2014 there have been several changes to schools and religious bodies that need to be reflected in the regulations. Schools have closed, opened, converted to academy status, or changed name or post code, and some religious bodies have changed.

7.3 This SI amends Schedule 3 and Schedule 4 of the School Admissions Regulations to incorporate these changes into the regulations and keep them up to date. Names and details have been updated where necessary, and schools have been either added or removed as appropriate. Where there are no longer any LA maintained schools of a particular faith or religious denomination (because they have all closed or converted to academy status) the SI removes the respective religious bodies from the School Admissions Regulations. The SI also changes the Sikh representative body, moves it

to Schedule 4 and names the one Sikh LA maintained school and its representative body. This recognises that that body is the representative for that particular Sikh school, but not the default body representing all Sikh schools.

8. European Union Withdrawal and Future Relationship

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

9. Consolidation

9.1 There is no plan to consolidate.

10. Consultation outcome

10.1 There is no statutory requirement for the Department to consult on the SI. However, officials ran a four week, targeted consultation (27 October to 24 November 2021) to ensure all interested stakeholders had an opportunity to comment. The consultation went out to religious bodies named in the regulations, local authorities, LA maintained faith schools, faith academies / free schools and others who had expressed an interest in these matters. Officials did not consult schools with a Church of England or Catholic religious designation given that it remains clear from our ongoing dialogue with these faiths that their religious bodies are correctly reflected in the regulations.

10.2 Respondents made several suggestions for changes that they thought necessary (such as change of name, post code etc). The majority were accepted and have been included in the SI. Those that have not been included related to academies as the religious body is set out in the academy funding agreement rather than in this SI.

10.3 The consultation also sought views on removing religious bodies where there are no longer any LA maintained schools of the respective faith, and removing Jewish schools that have since converted to academy status. Of those that provided a view on these questions, the majority agreed that these bodies and schools should be removed. A small minority disagreed but did not present any reasonable justification to keep these bodies and schools in the regulations.

10.4 The School Admissions Regulations do not include religious bodies for either the single United Reformed Church school or the nine non-denominational Christian schools, meaning that LA maintained schools of these faiths will not be able to take account of religious activities as laid out by a religious body in their admission arrangements. No respondent to the consultation raised any concerns on this matter and so this SI, therefore, maintains the status quo for these schools.

10.5 Dialogue with the Sikh community prior to, during and after the consultation revealed that there is no one Sikh body that can act as the representative body for all Sikh schools. One respondent suggested including Sikh schools in Schedule 4, adopting the same approach in the regulations as used for schools of the Jewish faith. Whilst there is only one LA maintained Sikh school, this SI makes that change to acknowledge that the body listed is not the default body for all Sikh schools.

11. Guidance

11.1 No guidance is required as the role of the bodies listed in Schedules 3 and 4 is specified in the Code.

12. Impact

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

12.2 There is no, or no significant, impact on the public sector.

12.3 A full Impact Assessment has not been prepared for this instrument because there is no significant impact on business, charities or voluntary bodies.

13. Regulating small business

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

14. Monitoring & review

14.1 The approach to monitoring of this legislation is through regular stakeholder engagement.

14.2 The instrument does not include a statutory review clause.

15. Contact

15.1 Mark Earl at the Department for Education. Telephone: 0207 340 8153 or email: mark.earl@education.gov.uk can be contacted with any queries regarding the instrument.

15.2 Kim Sibley, Deputy Director for Admissions, School Organisation and Transport, at the Department for Education can confirm that this Explanatory Memorandum meets the required standard.

15.3 Baroness Barran at the Department for Education can confirm that this Explanatory Memorandum meets the required standard.