EXPLANATORY MEMORANDUM TO

THE SCHOOL BUDGET SHARES (PRESCRIBED PURPOSES) (ENGLAND) (AMENDMENT) REGULATIONS 2010

2010 No. 190

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. Purpose of the instrument

2.1 The instrument allows schools to use their delegated budgets for two new purposes.

2.2 First, they will be able to provide staff and other resources to, and pool funds with, other organisations for the purpose of providing services to children with a view to improving their well-being.

2.3 Second, they will be able to provide resources and contribute funding towards the work of their local Children's Trust Board, which brings together all the main providers of services for children in each children's services authority area.

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

3.1 None

4. Legislative Context

4.1 Section 50 of the School Standards and Framework Act 1998 allows governing bodies to spend their delegated budgets "for any purposes of the school" or "for such purposes as may be prescribed". These Regulations are made under section 50. They amend the School Budget Shares (Prescribed Purposes) (England) Regulations 2002 in order to bring them into line with the recent changes made to the Children Act 2004, outlined in 4.2 and 4.3 below.

4.2 Section 193 of the Apprenticeships, Skills, Children and Learning Act 2009 ("the 2009 Act") amended section 10 of the Children Act 2004 ("the 2004 Act) to add school governing bodies to the list of statutory "relevant partners" for the purposes of arrangements made under that section by the Children's Services Authority. Section 193[1] was commenced by order on 12th January 2010.

4.3 Section 194 of the 2009 Act inserted new sections 12A – 12D into the 2004 Act to provide for the establishment of Children's Trust Boards and the resourcing and funding of their work by a children's services authority and its relevant partners. Section 194 is scheduled to be commenced by order on 1st April 2010.

[1] With the exception of subsection (2)(b), which is not relevant here.

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

- ***What is being done and why***

7.1 The 2004 Act defined "relevant partners" and placed a duty on relevant partners to co-operate with the children's services authority in making arrangements made by the authority with a view to improving the well-being of children (these arrangements are commonly known as Children's Trusts). Children's Trust partners co-operate on the provision of services for children and young people in each children's services authority area, with a view to improving their well-being. The 2009 Act added governing bodies of maintained schools to the list of "relevant partners" to ensure that schools work in partnership with other services for children and have a stronger voice in local strategic decision making. They should in turn receive better tailored services to support their pupils

7.2 The 2004 Act, as amended by the 2009 Act, makes provision for children's services authorities and/or relevant partners to provide resources and to contribute to a fund out of which payments may be made in respect of expenditure incurred by a children's services authority or relevant partners. This means that they can make contributions to a particular service or initiative, which is then managed as a single budget by the children's services authority or one of the partners.

7.3 This legislation also makes provision for relevant partners to make contributions of funds or resources towards the work of a Children's Trust Board.

7.4 The School Budget Shares (Prescribed Purposes) (England) Regulations 2002 ("the 2002 Regulations") do not provide for the governing bodies of maintained schools to use their delegated budgets for these purposes. This instrument amends the 2002 Regulations to include two new prescribed purposes and in doing so brings those Regulations into line with the new powers conferred on governing bodies in the 2004 Act.

- ***Consolidation***

7.5 These Regulations do not consolidate other Regulations. They simply amend the 2002 Regulations.

8. Consultation outcome

8.1 Since these Regulations simply bring the 2002 Regulations into line with recent changes to the 2004 Act, the Department did not undertake a full consultation exercise. We have, however, consulted our local authority and school partners – who include representation from the teacher unions, Local Government Association and Association of Directors of Children's Services - informally and they are content with these permissive powers.

9. Guidance

9.1 A guidance note is to be sent to all schools and local authorities outlining the new powers.

10. Impact

10.1 There is no direct impact on business, charities or voluntary bodies.

10.2 The impact on the public sector is that allowing schools to use their delegated budgets for these purposes will provide greater flexibility for funding services which improve the well-being of children and for funding the work of the Children's Trusts Boards.

10.3 An Impact Assessment has not been prepared for this instrument.

11. Regulating small business

11.1 The legislation does not apply to small business.

12. Monitoring & review

12.1 As the instrument is needed to bring the 2002 Regulations into line with changes made to the 2004 Act by the 2009 Act, there will not be specific monitoring of the outcomes separately from that being undertaken for the 2009 Act itself. The School Funding Team within the Department for Children, Schools and Families will log and review any correspondence from schools and local authorities relating to the instrument.

13. Contact

Keith Howkins at the Department for Children, Schools and Families Tel: 020 7227 5163 or email: keith.howkins@dcsf.gsi.gov.uk can answer any queries regarding the instrument.