EXPLANATORY MEMORANDUM TO

THE SCHOOL FINANCE (AMENDMENT) (ENGLAND) REGULATIONS 2007

2007 No. 365

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 Joint Committee on Statutory Instruments and the House of Lords Merits Committee.

2. Description

2.1 The attached regulations amend the School Finance (England) Regulations 2006. Specifically they:

a. include small number of school finance provisions provided for in the Education and Inspection Act 2006; and

b. make some minor amendments to the existing regulations to ensure they operate correctly in the financial year 2007-08.

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

3.1 None

4. Legislative Background

4.1 Sections 45A, 45AA and 47 of the Schools Standards and Framework Act (SSFA 1998) as amended by the Education Acts in 2002 and 2005 make provision to allow the Secretary of State to make regulations governing the operation of the budgets of a local education authority and the framework under which local authorities must provide the schools they maintain with budget shares.

4.2 The provision of regulations covering more than one year has been made possible through amendments to the Schools Standards and Framework Act contained within the Education Act 2005: specifically in section 101 and schedule 16 of that Act. In addition, the amendments in the Education Act 2005 in respect of the SSFA 1998 also provide for regulations to be made that give Schools Forums and the Secretary of State certain powers.

4.3 A set of regulations was made prior to the start of the current two-year funding period (2006-07 and 2007-08).

5. Territorial Extent and Application

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 Education and Inspection Act contained a small number of school finance provisions which are implemented through these amendment regulations. These changes:

a. place a requirement on local authorities to provide a new school with a budget share up to 15 months before it admits pupils that is sufficient to fund any start-up costs necessary.

b. give the power to agree changes to a local authority's scheme for financing schools on the Schools Forums; and

c. alter the regulations so that from 1st September 2007 local authorities will be able to recover funding from schools to provide education for a pupil from the 6th school day after he/she has been permanently excluded.

7.2 In addition these amendment regulations make some minor technical changes to the original set of regulations, in relation to the 2007-08 year of the multi year period. These comprise:

a minor technical changes to the way the Minimum Funding Guarantee operates in 2007-08;

b a slight variation to the way in which a local authority may fund schools for any pupils they have following a vocational curriculum at key stage 4 to bring it in line with current practice; and

c amendments to a number of legislative references to reflect amendments to other legislation: none of these amendments have policy implications for the School Finance Regulations.

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 on the public sector (i.e. local education authorities and maintained school governing bodies) is in accordance with good accounting practice and administration of the public funds they will receive to appropriate to their schools budgets.

9. Contact

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