# EXPLANATORY MEMORANDUM TO

# THE SCHOOL GOVERNANCE (PROCEDURES) (ENGLAND) (AMENDMENT) REGULATIONS

## 2007 No. 959

**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.

## 2. Description

2.1 The School Governance (Procedures) (England) (Amendment) Regulations 2007 set out amendments to the procedures to be adopted by governing bodies of maintained schools, including maintained nursery schools, in England.

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

3.1 None

## 4. Legislative Background

4.1 The School Governance (Procedures) (England) (Amendment) Regulations 2007 amend the School Governance (Procedures) (England) Regulations 2003 which set out the procedural arrangements for governing bodies of maintained schools in England.

4.2 These Regulations form part of a series of consequential changes to school governance regulations to implement the provisions of the Education and Inspections Act 2006. Related Regulations are:

- the School Governance (Constitution) (England) Regulations 2007
- the School Governance (New Schools) (England) Regulations 2007
- the School Governance (Federations) (England) Regulations 2007

## 5. Extent

5.1 This instrument applies to England.

## 6. European Convention on Human Rights

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

## 7. Policy background

7.1 Regulation 12(2) of the School Governance (Procedures) (England) Regulations 2003 requires that "Every question to be decided at a meeting of the governing body shall be determined by a majority of the governors present and voting on the question."

7.2 These regulations introduce a requirement that any proposal by a school governing body to change a school name must be determined by a unanimous vote of the governing body and that any governor who is unable to be present at the meeting when the vote is taken will be able to vote by proxy.

7.3 The Education and Inspections Act 2006 introduced provisions whereby maintained schools could become "trust schools". Each trust school will be a foundation school supported by a charitable foundation or Trust, which will appoint governors to the school's governing body. They will be funded in exactly the same way as other local authority maintained schools. A trust school will employ its own staff, and manage its own land and assets.

7.4 The governing body of a foundation school can decide whether a trust that it has adopted can appoint the majority or the minority of governors on the governing body. The introduction of the requirements for a unanimous vote to sanction a change of school name and proxy voting for governors unable to be present at the meeting where the issue is voted upon are seen as essential safeguards to prevent an unsuitable name for a school being forced through by a simple majority of the governing body.

7.5 The Regulations also make other minor amendments for clarification purposes.

7.6 The Regulations have been subject to public consultation from 13th November 2006 until 4th February 2007. Five respondents felt that the requirement for a unanimous vote and the introduction of proxy voting on this issue were unnecessary. We disagree with their views for the reason given in 7.4 above.

## 8. Impact

8.1 A Regulatory Impact Assessment has not been prepared for this instrument since it will not impose any significant cost or increase in workload to schools or local authorities.

## 9. Contact

9.1 Geoffrey Friston at the Department of Education and Skills Tel: 01325 391288 or e-mail: geoff.friston@dfes.gsi.gov.uk can answer any queries regarding the instrument.