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STATUTORY INSTRUMENTS

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**2008 No. 1971 (C. 95)**

**EDUCATION, ENGLAND**

**The Education and Inspections Act 2006 (Commencement  
No.7 and Transitional Provisions) Order 2008**

*Made* - - - - *22nd July 2008*

The Secretary of State for Children, Schools and Families, in exercise of the powers conferred by sections 181(2) and 188(3) of the Education and Inspections Act 2006<sup>(1)</sup>, makes the following Order:

**Citation and interpretation**

1.—(1) This Order may be cited as the Education and Inspections Act 2006 (Commencement No. 7 and Transitional Provisions) Order 2008.

(2) In this Order—

“the Act” means the Education and Inspections Act 2006; and

“SSFA 1998” means the School Standards and Framework Act 1998<sup>(2)</sup>.

**Provisions coming into force on 1st September 2008**

2. The following provisions of the Act come into force on 1st September 2008—

(a) section 37 in relation to England only,

(b) section 77(2) and Schedule 8 (in each case for all remaining purposes), and

(c) section 154.

**Transitional provisions and savings**

3. Where immediately before 1st September 2008 a member of staff at a school to which section 60 of SSFA 1998 applies enjoyed any rights conferred by that section, that person shall continue to enjoy those rights as though section 37 of the Act was not in force until the member of staff ceases to be employed or engaged at the school.

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(1) 2006 c.40.

(2) 1998 c.31.

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22nd July 2008

*Jim Knight*  
Minister of State  
Department for Children, Schools and Families

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## EXPLANATORY NOTE

*(This note is not part of the Order)*

This Order is the seventh commencement order made under the Education and Inspections Act 2006. Article 2 brings into force on 1st September 2008 the following provisions of that Act.

**Section 37** amends sections 58 and 60 of the School Standards and Framework Act 1998 (SSFA 1998). The provision is to be commenced in relation to England only; the National Assembly for Wales having the power to commence the provision in relation to Wales.

Section 37(1) amends section 58 of SSFA 1998 to enable head teachers at foundation and voluntary controlled schools with a religious character to be “reserved teachers”, that is teachers who are appointed specifically to teach religious education in accordance with the tenets of the school’s designated religion.

Section 37(2) amends section 60 of SSFA 1998. Paragraph (a) makes amendments consequential on the amendment to section 58 made by subsection (1). Paragraph (b) excludes the application to England of section 60(6) of SSFA 1998, which prevents a voluntary aided school with a religious character from applying religious criteria in connection with the employment of members of staff other than teachers. The appointment of these members of staff will be subject to the Employment Equality (Religion or Belief) Regulations 2003 which will have the effect of preventing the governing body from discriminating on religious grounds in the appointment of non-teaching staff, except in a case where being of a particular religion or religious denomination is a genuine occupational requirement.

**Section 77(2)** gives effect to **Schedule 8** which inserts Schedule 35B to the Education Act 1996 (EA 1996). Both section 77(2) and Schedule 8 were commenced by The Education and Inspections Act 2006 (Commencement No. 5 and Saving Provisions) Order 2007 except in relation to paragraphs 11, 12 and 13 of Schedule 35B. Schedule 35B defines ‘eligible child’ for the purposes of section 508B of EA 1996 i.e. those classes of children whose travel needs fall to be considered under section 508B and provided free of charge. Paragraphs 11, 12 and 13 relate to children of 11 years and above from low income families. This Order commences section 77(2) and Schedule 8 to the extent that they are not already in force, so that children of 11 years and above from low income families are included in the definition of ‘eligible child’.

**Section 154** amends section 5(5) of the Education Act 2005. It adds a further matter – a school’s contribution to community cohesion – to the list of matters on which the Chief Inspector is under a general duty to report. This corresponds to the general duty of a governing body of a maintained school to promote community cohesion, in section 38 of the Act.

Article 3 contains transitional provisions. These provide that current members of staff at schools to which section 60 applies, will continue to enjoy the rights currently conferred on them by that section for as long as they are employed at the school. This means that voluntary aided schools with a religious character cannot apply religious criteria in connection with the employment of its current non-teaching members of staff for as long as those individuals continue to be employed at the school.

## NOTE AS TO EARLIER COMMENCEMENT ORDERS

*(This note is not part of the Order)*

The following provisions of this Act have been brought into force by commencement orders made before the date of this Order:

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<i>Provisions</i>	<i>Date of Commencement</i>	<i>S.I. No</i>
Section 1, in relation to England only	25th May 2007	SI 2007/935
Sections 2 and 3	25th May 2007	SI 2007/935
Section 4 in relation to England	27th February 2007	SI 2006/3440
Section 5, partially	8th February 2007	SI 2006/3440
Section 5, partially	1st April 2007	SI 2007/935
Section 5, partially	1st September 2007	SI 2007/1801
Section 5, partially	1st January 2008	SI 2007/3074
Section 5, partially	1st April 2008	SI 2007/3074
Sections 7 to 17	25th May 2007	SI 2007/935
Section 18 (1) to (3)	1st April 2007	SI 2007/935
Section 18 (4) and (5)	25th May 2007	SI 2007/935
Sections 19 and 20	25th May 2007	SI 2007/935
Sections 21 to 24	1st April 2007	SI 2007/935
Section 25 (5), (6) and (7)	1st April 2007	SI 2007/935
Section 25 (1) to (4) and (8)	25th May 2007	SI 2007/935
Section 26	1st April 2007	SI 2007/935
Section 27 (1) to (6) and (8)	1st April 2007	SI 2007/935
Section 27 (7)	25th May 2007	SI 2007/935
Sections 28 to 30	25th May 2007	SI 2007/935
Sections 31 and 32	1st April 2007	SI 2007/935
Section 33, partially	1st April 2007	SI 2007/935
Section 33, fully	25th May 2007	SI 2007/935
Section 34	25th May 2007	SI 2007/935
Section 35, partially	1st April 2007	SI 2007/935
Section 35, fully	25th May 2007	SI 2007/935
Section 36	25th May 2007	SI 2007/935
Section 38 (1) partially, in relation to England	25th May 2007	SI 2007/1271
Section 38 (2) in relation to England	25th May 2007	SI 2007/1271
Section 38 fully, in relation to England	1st September 2007	SI 2007/1801

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<i>Provisions</i>	<i>Date of Commencement</i>	<i>S.I. No</i>
Section 39 in relation to England	27th February 2007	SI 2006/3440
Section 40 in relation to England	12th December 2006	SI 2006/2990
Section 41	27th February 2007	SI 2006/3440
Section 42	27th February 2007	SI 2006/3440
Section 43 in relation to England	8th January 2007	SI 2006/3400
Section 44 in relation to England	27th February 2007	SI 2006/3400
Section 45 in relation to England	8th January 2007	SI 2006/3400
Section 46	27th February 2007	SI 2006/3400
Section 47 in relation to England	27th February 2007	SI 2006/3400
Section 48	8th January 2007	SI 2006/3400
Section 49	8th January 2007	SI 2006/3400
Section 50	8th January 2007	SI 2006/3400
Section 51	8th January 2007	SI 2006/3400
Section 53	27th February 2007	SI 2006/3400
Section 54 (1), (2) and (3) (b)	8th January 2007	SI 2006/3400
Section 54, fully	25th May 2007	SI 2007/935
Section 55(8) and (9) in relation to England only	25th June 2007	SI 2007/1801
Section 55 fully, in relation to England	1st September 2007	SI 2007/1801
Section 56 in relation to England	25th May 2007	SI 2007/935
Section 57 in relation to England	8th February 2007	SI 2006/3400
Sections 59 to 73	1st April 2007	SI 2007/935
Section 74 (4)	1st April 2007	SI 2007/935
Section 76	1st April 2007	SI 2007/935
Section 77 (1), partially	1st April 2007	SI 2007/935
Section 77 (1) fully	1st September 2007	SI 2007/1801
Section 77(2) partially	1st September 2007	SI 2007/1801
Sections 78 to 80	1st April 2007	SI 2007/935

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<i>Provisions</i>	<i>Date of Commencement</i>	<i>S.I. No</i>
Section 82	1st September 2007	SI 2007/1801
Section 83	1st April 2007	SI 2007/935
Section 84, partially	1st April 2007	SI 2007/935
Section 84, partially	1st September 2007	SI 2007/1801
Section 85, partially	1st April 2007	SI 2007/935
Section 85, partially	1st September 2007	SI 2007/1801
Sections 88 to 96 in relation to England	1st April 2007	SI 2007/935
Sections 97 to 99 in relation to England	1st September 2007	SI 2007/1801
Sections 100 and 101	1st September 2007	SI 2007/1801
Section 102 in relation to England	1st September 2007	SI 2007/1801
Sections 103 to 107	1st September 2007	SI 2007/1801
Section 108 in relation to England	1st September 2007	SI 2007/1801
Sections 109(8) and 110	1st September 2007	SI 2007/1801
Section 112 (1) to (3)	12th December 2006	SI 2006/2990
Section 112 (4), partially	12th December 2006	SI 2006/2990
Section 112 (4), fully	1st April 2007	SI 2007/935
Sections 113 to 115	1st April 2007	SI 2007/935
Section 116 (1) (a) and (b)	12th December 2006	SI 2006/2990
Section 116 (1) (c) and (2)	1st April 2007	SI 2007/935
Section 117	12th December 2006	SI 2006/2990
Sections 118 to 153	1st April 2007	SI 2007/935
Section 155	1st April 2007	SI 2007/935
Section 157	1st April 2007	SI 2007/935
Section 158, partially	12th December 2006	SI 2006/2990
Section 158, fully	1st April 2007	SI 2007/935
Section 159	12th December 2006	SI 2006/2990
Section 160	28th March 2007	SI 2007/935
Section 163	8th January 2007	SI 2006/3400
Section 164 in relation to England	28th March 2007	SI 2007/935

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<i>Provisions</i>	<i>Date of Commencement</i>	<i>S.I. No</i>
Sections 165 and 166 in relation to England	1st April 2007	SI 2007/935
Section 167 in relation to England	1st September 2007	SI 2007/1801
Section 173	8th January 2007	SI 2006/3400
Section 176	1st April 2007	SI 2007/935
Section 184, partially	12th December 2006	SI 2006/2990
Section 184 (partially), in relation to England	8th January 2007	SI 2006/3400
Section 184, partially	8th January 2007	SI 2006/3400
Section 184 (partially), in relation to England	8th February 2007	SI 2006/3400
Section 184 (partially) in relation to England	27th February 2007	SI 2006/3400
Section 184, partially	27th February 2007	SI 2006/3400
Section 184 (partially) in relation to England	1st April 2007	SI 2007/935
Section 184, partially	1st April 2007	SI 2007/935
Section 184 (partially) in relation to England	25th May 2007	SI 2007/935
Section 184, partially	25th May 2007	SI 2007/935
Section 184, (partially) in relation to England	1st September 2007	SI 2007/1801
Section 184, partially	1st September 2007	SI 2007/1801
Schedule 2, partially	1st April 2007	SI 2007/935
Schedule 2, fully	25th May 2007	SI 2007/935
Schedule 3	25th May 2007	SI 2007/935
Schedule 4	25th May 2007	SI 2007/935
Schedule 5 in relation to England	8th February 2007	SI 2006/3400
Schedule 6	1st April 2007	SI 2007/935
Schedule 7	1st April 2007	SI 2007/935
Schedule 8, partially	1st September 2007	SI 2007/1801
Schedule 9	1st April 2007	SI 2007/935
Schedule 10, partially	1st April 2007	SI 2007/935
Schedule 10, partially	1st September 2007	SI 2007/1801

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<i>Provisions</i>	<i>Date of Commencement</i>	<i>S.I. No</i>
Schedule 11, partially	12th December 2006	SI 2006/2990
Schedule 11, fully	1st April 2007	SI 2007/935
Schedules 12 to 14	1st April 2007	SI 2007/935
Schedule 15, partially	12th December 2006	SI 2006/2990
Schedule 15, fully	1st April 2007	SI 2007/935
Schedule 18, partially	12th December 2006	SI 2006/2990
Schedule 18 (partially), in relation to England	8th January 2007	SI 2006/3400
Schedule 18, partially	8th January 2007	SI 2006/3400
Schedule 18 (partially), in relation to England	8th February 2007	SI 2006/3400
Schedule 18 (partially), in relation to England	27th February 2007	SI 2006/3400
Schedule 18, partially	27th February 2007	SI 2006/3400
Schedule 18 (partially) in relation to England	1st April 2007	SI 2007/935
Schedule 18, partially	1st April 2007	SI 2007/935
Schedule 18 (partially) in relation to England	25th May 2007	SI 2007/935
Schedule 18, partially	25th May 2007	SI 2007/935
Schedule 18 Part 6, partially in relation to England	1st September 2007	SI 2007/1801
Schedule 18 Part 6, partially	1st September 2007	SI 2007/1801