

**EXPLANATORY MEMORANDUM TO  
THE EDUCATION (SCHOOL INFORMATION) (ENGLAND) (AMENDMENT)  
REGULATIONS 2005**

**2005 No.2152**

- 1.** This explanatory memorandum has been prepared by the Department for Education and Skills and is laid before Parliament by Command of Her Majesty.

**2. Description**

2.1 These regulations amend the Education (School Information) (England) Regulations 2002<sup>1</sup> (“the principal regulations”) in relation to the information that the governing bodies of maintained schools are obliged to publish in the school prospectus.

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

3.1 None

**4. Legislative Background**

4.1 The principal regulations were made under various provisions of the Education Act 1996 and the School Standards and Framework Act 1998 and relate to information to be published by the governing bodies of maintained schools and local education authorities.

4.2 In particular, the principal regulations currently require the governing bodies of maintained schools to publish certain information relating to the school in a single document to be identified as the school prospectus. Schedule 3 to the principal regulations prescribes the information that the governing body must include in the school prospectus. The principal regulations also set out the time and manner of the publication of the school prospectus.

4.3 These regulations make amendments to the principal regulations in relation to the content of the school prospectus. They provide that the governing body must publish the special educational needs report referred to in section 317(5) of the Education Act 1996 (“the SEN report” – see below) and any other general information relating to the school which they may decide to publish as a single document identified as the school prospectus. The effect of these regulations is that the only statutory requirement as to the contents of the school prospectus is the SEN report: it is for governing bodies to decide what other information should be included in their school prospectus.

4.4 The Education Act 2005 (paragraph 2 of Schedule 18) substituted new subsections (5) to (6A) for subsections (5) to (7A) of section 317 of the Education Act 1996 so that instead of requiring governing bodies in England to put special needs information in their governors’ report (which was abolished by the Education Act

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<sup>1</sup> SI 2002/2897, as amended by the Education (Amendments to Regulations Requiring the Publication of Pupil Performance Information) (England) Regulations 2005 (SI 2005/845).

2005), they will now be required to 'prepare a report' containing the same information.

## **5. Extent**

5.1 This instrument applies to England.

## **6. European Convention on Human Rights**

No statement is required.

## **7. Policy background**

7.1 These regulations are intended to give effect to a commitment by the Department for Education and Skills to de-regulate the content of the schools prospectus but to require that certain special educational needs information be included in it. See the Policy Statement attached as the Annex.

7.2 The de-regulation of the school prospectus is part of the New Relationship with Schools policy, which is intended to increase the flexibility available to schools about how they communicate with parents. It is part of a package of measures designed to reduce heavy statutory prescription, and to free schools to respond to the needs of their particular parents – this includes the removal of the requirement to hold an annual parents' meeting and to produce an annual governors' report, and the new duty to produce a school Profile once a year.

7.3 The Department consulted certain stakeholders on the proposed changes to the principal regulations in July 2005. The consultative group consisted of the major teaching unions and bodies representing governors, and the Implementation Review group. The results of a national consultation in the previous year also supported the intention to deregulate the contents of the prospectus. The results of the consultation were supportive of the proposed regulations as they are currently drafted.

## **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.

## **9. Contact**

Hilary Spencer of the Department for Education and Skills Tel: 020 7925 5240 or e-mail: [hilary.spencer@dfes.gsi.gov.uk](mailto:hilary.spencer@dfes.gsi.gov.uk) can answer any queries regarding the instrument.

### **Policy statement on the school Prospectus**

In conjunction with the repeal of the Governors' Annual Report, we intend to deregulate much of the content of the school Prospectus.

The Prospectus and the Governors' Annual Report were originally distinct documents, with different contents. Increasingly, however, their contents began to overlap, and the decision was taken to have a core amount of information that was common to both, so that schools could use the same information twice, if they wished.

The continued distinctions between the two documents recognised that the needs of prospective parents are different from those of current parents, and we intend to retain that distinction by aiming the Profile at existing parents, and retaining the requirement for schools to have a Prospectus. However, we intend to deregulate the contents of the school Prospectus significantly.

All of the information that is currently contained in the Prospectus is now available under the Freedom of Information Act, so deregulating the contents of the Prospectus does not actually reduce the amount of information available to parents. We are removing all prescription about the contents of the school Prospectus, apart from information about SEN and disability, so that schools are freer to respond to the requests of parents for particular pieces of information.

The statutory requirements on schools to report on the SEN and disability work of the school will be the same as those currently in the Governors' Annual Report, but will now be in the Prospectus. All parents have access to the Prospectus at the point at which they choose a school for their child, and it will be a statutory document to which all parents have access throughout their child's time at school. This SEN and disability information will be the only obligatory content of the Prospectus – we recognise that it is important for parents to have easy access to this information, and for schools to be made fully aware of their obligations to provide this information.

Schools are required by law to write a 'report' annually about their SEN provision, which includes these elements:

- a. Arrangements for the admission of pupils with disabilities;
- b. Details of steps to prevent disabled pupils being treated less favourably than other pupils;
- c. Details of existing facilities to assist access to the school by pupils with disabilities;
- d. The accessibility plan (required under the Disability Discrimination Act 1995) covering future policies for increasing access to the school by pupils with disabilities;
- e. Information about the implementation of the governing body's policy on pupils with special educational needs and any changes to the policy

during the last year<sup>2</sup>.

This information will now have to be included in a school's Prospectus, rather than in their Governors' Annual Report.

In the Bill, we have amended section 317 of the Education Act 1996 so that instead of requiring Governing Bodies in England to put special needs information in their Governors' Annual Report, they will be required to 'prepare a report' containing the same information. In the regulations for the school Prospectus, we will require schools to include this 'report' in their Prospectus. We cannot amend s.317 to refer to the 'Prospectus' instead of the GAR because the Prospectus is prescribed through regulations, and primary legislation cannot refer to a document prescribed by regulation. This amendment ensures that the requirement to make this information available is preserved in primary legislation, and we will amend the Prospectus regulations to include it.

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<sup>2</sup> The policy itself is required by the Education (Special Educational Needs) (Information) (England) Regulations 1999.

# Education (School Information) (England) Regulations 2002

## EDUCATION, ENGLAND

*Made*  
*Laid before Parliament*  
*Coming into force*

*8 November 2002*  
*2 December 2002*  
*20 January 2003*

In exercise of the powers conferred on the Secretary of State by sections 29(5), 408, 537 and 569(4) and (5) of the Education Act 1996, sections 92 and 138(1) of the School Standards and Framework Act 1998, and of all other powers enabling him in that behalf, the Secretary of State for Education and Skills hereby makes the following Regulations:

### Part 1 General

#### 1 Citation and commencement

- (1) These Regulations may be cited as the Education (School Information) (England) Regulations 2002 and shall come into force on 20th January 2003.
- (2) These Regulations apply only in relation to England.

#### 2 Revocation and Savings

- (1) Subject to paragraph (2), the Education (School Information) (England) Regulations 1998, the Education (School Information) (England) (Amendment) Regulations 1999 and the Education (School Information) (England) (Amendment) Regulations 2002 are hereby revoked.
- (2) The Regulations revoked by paragraph (1) shall continue to have effect in relation to the publication school year ending in 2003 and nothing in these Regulations shall have effect in relation to that publication school year.

#### 3 Interpretation

- (1) In these Regulations—

“the 1996 Act” means the Education Act 1996;

“the 1998 Act” means the School Standards and Framework Act 1998;

“the 2002 Act” means the Education Act 2002;

“admission number” means the number of pupils in any relevant age group intended to be admitted in any school year as determined by an admission authority in accordance with section 89A(1) of the 1998 Act;

“admission school year” means a school year at the beginning of which pupils are to be admitted to any school;

“appropriate relevant area” means any relevant area (within the meaning of section 89(3) of the 1998 Act) that applies for consultation about the proposed admission arrangements for a school maintained by the relevant authority;

“authority” means a local education authority and, in relation to an authority, “the offices” means the education offices;

“composite prospectus” means a composite document required to be published by regulation 8;

“indicated admission number” means the number of pupils in any relevant age group referred to as such in, and determined in accordance with the net capacity assessment method set out in, the guidance, *Assessing the Net Capacity of Schools*, issued by the Department for Education and Skills in August 2002;

“local average figures” means the average figures for all schools maintained by the relevant authority (other than any special school established in a hospital), and all city technology colleges and city colleges for the technology of the arts and Academies, in the area of that relevant authority;

“looked after children” has the same meaning as in section 22 of the Children Act 1989;

“maintained school” except in Part 4 means—

- (a) any community, foundation or voluntary school, or
- (b) any community or foundation special school which is not established in a hospital, but excludes any nursery school;

“non-maintained special school” means a special school which is not maintained by an authority (and which is not established in a hospital);

“previous school year” means the school year immediately preceding the reporting school year;

“publication school year” means the school year immediately preceding the admission school year;

“public examinations” means public examinations which are for the time being prescribed by regulations made under sections 402, 451, 453 and 454 of the 1996 Act;

“primary education” does not include such education provided at a middle school;

“relevant authority” in relation to a school means the authority which maintains the school;

“reporting school year” means the school year immediately preceding the publication school year;

“school prospectus” means the document described in regulation 14;

“special educational needs” and “special educational provision” have the same meanings as in section 312 of the 1996 Act;

“special school” has the meaning given to it by section 337(1) of the 1996 Act;

(2) In these Regulations, any reference to a date up to which parents may express a preference for a school is a reference to the date by which, in accordance with arrangements made by the relevant local education authority under section 86(1) of the 1998 Act, a parent wishing education to be provided for his child in the exercise of the authority’s functions should express such a preference.

(3) .....

(4) In these Regulations, references to pupils of a particular age are to pupils who attained that age during the period of twelve months ending on the 31st August immediately preceding the commencement of the reporting school year and who were registered pupils at the school on the third Thursday in January in the reporting school year.

(5) .....

(6) .....

(7) .....

#### **4 Qualification of duties**

The duties imposed on a governing body and an authority by virtue of these Regulations in respect of provision, publication or making available information apply only to the extent that that information is available to the governing body or the authority in time for it to be reasonably practicable to provide, publish or make available the information before the latest occasion on which the information is required to be provided, published or made available as the case may be.

#### **Part 2**

#### **Provision of Information by Head Teacher**

#### **5 Provision of information by head teacher to governing body**

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#### **Part 3**

#### **Information to be Published or Provided by Authorities**

#### **6 Information to be published by authorities**

- (1) An authority shall publish information in respect of each of the matters specified in Schedule 1.
- (2) Where changes in respect of any of those matters have been decided on by the authority but not yet implemented, the authority shall also publish information about those changes.
- (3) .....
- (4) .....
- (5) This information shall be published as provided in regulation 7.

#### **7 Time and manner of publication of information by authorities**

(1) This regulation shall apply in relation to the publication by an authority of the information in respect of the matters specified in Schedule 1.

(2) Such information and particulars shall be published during the publication school year and, except in so far as they relate exclusively to primary education or special educational provision, they shall be published no later than six weeks before the date up to which parents may express a preference for a school in respect of the admission school year.

- (3) Subject to paragraphs (4) to (8), such information and particulars shall be published—
  - (a) by copies being made available for distribution without charge to parents on request, and for reference by parents and other persons—
    - (i) at the office of the relevant authority, and
    - (ii) at every school maintained by that authority, other than a nursery school or a special school;
  - (b) by copies being distributed without charge to parents of pupils at schools maintained by the relevant authority, other than nursery schools or special schools, who, in the publication school year, are in the final year at such schools and who might transfer to other schools so maintained; and

- (c) by copies being made available for reference by parents and other persons at the public libraries in the area of the relevant authority.

(4) So far as the information in respect of the matters specified in paragraphs 3, 4 and 5 of Schedule 1 is concerned (schools maintained by the authority), the information in respect of schools in a particular part of the relevant local education authority's area need not—

- (a) be made available at offices, schools and libraries outside that part, or
- (b) be distributed to the parents of pupils who are at schools outside that part,

if information about how it may be obtained is available at those offices, schools and libraries or, as the case may be, is distributed to those parents.

(5) Where, in accordance with regulation 8, the authority publishes the information specified in paragraphs 1, 2 and 5 of Schedule 2, the authority shall not also be required, under this regulation, to publish the same information as specified in paragraphs 3, 4 and 5 of Schedule 1.

(6) Irrespective of the terminology used, it shall be sufficient compliance with paragraph (3)(a)(ii) if so much of the information and particulars as relates to schools classified as—

- (a) primary schools,
- (b) middle schools,
- (c) secondary schools,

is available only in schools of the classification in question.

(7) It shall be sufficient compliance with paragraph (3)(b) if there is published so much of the information and particulars as is relevant having regard to the schools to which pupils in the final year at that school might transfer.

(8) So far as the particulars specified in Part 2 of Schedule 1 are concerned (special educational provision), paragraphs (3), (4), (6) and (7) shall not apply but the particulars shall be published—

- (a) by copies being made available for distribution without charge to parents on request and, for reference by parents and other persons, at the offices of the relevant authority; and
- (b) by copies being available for reference by parents and other persons—
  - i) at every school maintained by the relevant authority, and
  - (ii) at the public libraries in the area of that authority.

#### Part 4

#### Composite Prospectus of Admission Information

### **8 Authority to publish composite prospectuses**

(1) The provisions of this Part apply in relation to maintained schools (as defined by section 84(6) of the 1998 Act).

(2) An authority shall publish in a composite document the information specified in Schedule 2, with respect to all maintained schools in the composite prospectus area.

(3) For the purposes of this regulation, “the composite prospectus area” comprises—

- (a) the relevant authority's area; and
- (b) all such parts of the appropriate relevant area or appropriate relevant areas as extend beyond that authority's area.



(4) An authority may, if they wish, carry out their obligation under paragraph (2) in either or both of the following ways—

- (a) by publishing separate composite prospectuses covering respectively primary schools and secondary schools; and
- (b) by dividing the composite prospectus area into two or more parts and publishing a separate composite prospectus covering respectively schools in each part.

## **9 Time and manner of publication of composite prospectus**

(1) A composite prospectus shall be published annually and before 1st October in each publication school year, and in any event no later than six weeks before the date up to which parents may express a preference in respect of the admission school year for any school mentioned in that prospectus.

(2) A composite prospectus shall be published—

- (a) by copies being made available for distribution without charge to parents on request—
  - (i) at the offices of the authority who are publishing it, and
  - (ii) at every school maintained by that authority; and
- (b) by copies being made available for reference by parents and other persons at the public libraries in that authority's area.

## **10 Provision of information to the authority by governing bodies**

(1) For the purpose of enabling the authority to comply with their obligation under regulation 9, the governing body of every maintained school to be included in a composite prospectus under that regulation shall, in respect of each admission school year, provide to the relevant authority the information specified in Schedule 2 to these Regulations.

(2) The information referred to in Schedule 2 shall be provided no later than such time before the time required for publication of the prospectus as the authority may reasonably require.

### **Part 5**

#### **Information to be Published by Governing Bodies**

## **11 General Information to be published by governing bodies**

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## **12 Determination of examination results particulars and equivalency between GCSE examinations and vocational qualifications**

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## **13 Performance information relating to the reporting school year**

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## **14 Publication of school prospectuses**

(1) The governing body of a maintained school shall publish—

- (a) the report containing special needs information referred to in section 317(5) of the Education Act 1996<sup>(3)</sup>, and
  - (b) any other general information relating to that school which they may decide to publish,
- as a single document identified as the school prospectus.

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<sup>(3)</sup> Section 317 was amended by the Education Act 2005 (c.18), schedule 18, paragraph 2.

- (2) Copies of the school prospectus shall be made available at the school for distribution without charge to parents on request and for reference by parents and other persons.
- (3) The school prospectus shall be published during the publication school year and, except in the case of a special school, it shall be published not later than six weeks before whichever is the earlier of the following dates—
- (a) the date by which an application for admission to that school in respect of the admission school year should be made in accordance with the arrangements for admission to that school;
  - (b) the date up to which parents may express a preference for a school in respect of the admission school year.
- (4) In the case of a special school such information shall also be published by copies being made available at the offices of the relevant authority for distribution without charge to parents on request and reference by parents and other persons.
- (5) In the case of any maintained secondary school, a copy of the school prospectus shall be provided without charge to the offices in the area served by the school of persons providing career services in accordance with arrangements made, or directions given, under section 10 of the Employment and Training Act 1973.

## Part 6 Supplementary

### 15 Supplementary provisions relating to published documents

- (1) This regulation shall apply in relation to any document which contains such information or particulars as are mentioned in the preceding provisions of these Regulations and which is published in accordance with them.
- (2) Such a document shall state the school year to which the information or particulars in it relate and contain a warning that, although they were correct in relation to that year at a date specified in the document (not being earlier than six months before that of its publication), it should not be assumed that there will be no change affecting the relevant arrangements or some matters particularised—
- (a) before the start of, or during, the school year in question, or
  - (b) in relation to subsequent school years.
- (3) If it appears requisite to the governing body in respect of such a document to be published by them or, as the case may be, an authority in respect of such a document to be published by them or on behalf of the governing body, that a translation of such a document in a language other than English should be available, or that a Braille or audio tape version of such a document should be available, it shall be translated into that language or produced in a Braille or audio tape version, as the case may be, and the document so translated or so produced shall be published in such manner as appears to the governing body or authority to be appropriate.
- (4) Parents shall not be charged for a copy of such a translated document or such a document produced in a Braille or audio type version if they are entitled without charge to a copy of the original document.

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## SCHEDULES 1 AND 2 NOT REPRODUCED HERE

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### SCHEDULE 3 INFORMATION TO BE PUBLISHED BY GOVERNING BODIES

Regulations 5 and 11

**SCHEDULE 4**  
**ORDER IN WHICH GCSE RESULTS OF PUPILS AGED 15 ARE TO BE MADE AVAILABLE AND**  
**SYLLABUSES COUNTING AS GCSE SYLLABUSES**

Regulation 12

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