

**EXPLANATORY MEMORANDUM TO
THE SCHOOLS FORUM (ENGLAND) (AMENDMENT) REGULATIONS 2005**

2005 No. 3299

- 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 This instrument amends the statutory instrument governing the establishment, composition, proceedings and functions of Schools Forums in England.

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

3.1 None

4. Legislative Background

4.1 Schools Forums were established under section 47A of the 1998 Schools Standards and Framework Act (as amended by the 2002 Education Act). All local education authorities (“LEAs”) are required to establish a Schools Forum for their area in accordance with regulations. Section 47A(5) of the 1998 Act enables regulations to be made that make provision for the constitution, meetings and proceedings of a Schools Forum. It is this section under which the current statutory instrument is made.

5. Extent

5.1 This instrument applies to England.

6. European Convention on Human Rights

No statement is required.

7. Policy background

7.1 Schools Forums were established as consultative bodies to advise local education authorities on matters prescribed in regulations relating to the recurrent funding arrangements for schools and other non-school-based pupil provision. A minimum of 80% of the members of a Schools Forum must be ‘schools members’ (either head teachers or governors) while the remaining 20% of members can be ‘non-schools members’ nominated by a local authority. Non-school members are nominated on the basis that they represent ‘relevant bodies’ who have a legitimate interest in local school and other pupil provision funding processes.

- 7.2 The Education Act 2005 amends sections 45A and 47 of the 1998 Act to allow the Secretary of State to make regulations to give Schools Forums the powers to approve local authority proposals to vary the operation of the School Funding regulations, or put in place arrangements other than those in the regulations that otherwise would have to be approved by the Secretary of State. It is intended that, in the first instance, regulations providing such powers will be made in relation to the two financial years beginning on 1st April 2006 and the 1st April 2007.
- 7.3 In the light of Schools Forums gaining limited powers to approve local authority proposals, The Schools Forum (England) (Amendment) Regulations 2005 amend the current regulations in respect of those who may be eligible for membership of Schools Forums and by imposing a number of additional procedural requirements on Schools Forums. The policy intention is to ensure that there is greater consistency in the membership arrangements of all Schools Forums and to provide relevant stakeholders within an educational community confidence in the decision-making process of their local Schools Forum.
- 7.4 Specifically: executive elected members and local education authority officers other than those involved directly in providing, or directly managing the provision of, education to children will no longer be eligible for membership of Schools Forums, though they do have the right to attend meetings and speak at meetings on behalf of the local authority. This will mean that senior officers in education authorities/Children's Services Departments with responsibility for strategic resource management will cease to be eligible for membership. Schools Forums must also make a record of their membership, the constituents of each schools member group or sub-group will be responsible for their own election processes for nominating their representatives and Schools Forum members must elect from amongst themselves a chair and establish a formal voting procedure.
- 7.5 The requirement for the constituents of each schools member group or sub-group to be responsible for their own election processes is an important guarantee of the representative nature of Schools Forums. It will mean that every head-teacher or governor will have the opportunity to stand for election to a Schools Forum and/or participate in such an election. However, we do not want to disrupt existing membership arrangements by requiring all existing school members to be reconfirmed by election when the regulations come into force. Instead, the regulations provide that elections for replacement school members should be held only when the terms of office of current schools members end or they resign or otherwise become ineligible.
- 7.6 A draft of the amending regulations was issued for consultation in July. In this draft we had proposed a ban on all elected members and local education authority officers being members of a Schools Forum. The consultation closed on 7 October by which time we had received 52 responses. While there was support for the procedural changes proposed, there was concern expressed by just over half of the respondents regarding the restrictions placed on the membership of Schools Forums.

7.7 In response to these concerns, and in discussions with officials from ODPM who shared some of these concerns, Ministers have agreed to relax the restriction. As outlined in paragraph 7.4 above, the amendment regulations only place a ban on senior officers with responsibility for strategic resource management and executive elected members from membership of Schools Forums. We think this meets the policy intention of ensuring there is a correct separation of responsibilities between a local authority who will be making proposals to vary national regulations in certain respects and the Schools Forum who will have responsibility for approving such proposals. However, it does allow a greater degree of local preference in the membership arrangements of individual Schools Forums than was originally proposed.

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 There is no impact on the public sector.

9. Contact

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