

EXPLANATORY MEMORANDUM TO
THE EDUCATION (SCHOOL PERFORMANCE INFORMATION)
(ENGLAND) (AMENDMENT) REGULATIONS 2008

2008 No. 364

1. This explanatory memorandum has been prepared by the Department for Children, Schools and Families (DCSF) and is laid before Parliament by Command of Her Majesty.

2. Description

2.1 These Regulations amend the Education (School Performance Information) (England) Regulations 2007. They insert a requirement for any maintained school, Academy or city technology college (CTC) to supply the Secretary of State, on receipt of a written request, with the reason for each absence from Key Stage 3 National Curriculum tests.

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

3.1 None.

4. Legislative Background

4.1 These regulations amend the Education (School Performance Information) (England) Regulations 2007, which govern information that is to be provided to the National Data Collection Agency, the external marking agency and, on request, to the Secretary of State. They add to the items of information required to be supplied to the Secretary of State within 14 days of receipt of a written request in accordance with regulation 7 of the main regulations. Schedule 3 (Provision of Information to the Secretary of State: Third Key Stage Results) is amended to include an additional piece of information to be supplied, namely the reason for an absence from a Key Stage 3 National Curriculum test.

4.2 The request to provide the reason for absence will be triggered by criteria to be set by the Secretary of State. The criteria will be set out in the annual Assessment and Reporting Arrangements Document published by the Qualifications and Curriculum Authority (QCA). This measure is intended to focus the efforts of schools with higher than average levels of test absence to reduce avoidable absence.

5. Extent

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 All maintained schools have a statutory duty to record the fact of absence for students who did not sit key stage 2 and key stage 3 national curriculum tests. Analysis of this data shows that the national test absence rate for key stage 2 national curriculum tests is stable at around 1% whereas the absence rate for key stage 3 tests is around 3% - 4%. In 2007, 1024 schools had absence rates of 5% and above.

7.2 In accordance with the principles of Every Child Matters, national curriculum tests provide an objective means of assessing all pupils in the country on a consistent basis. They enable the progress of every child to be tracked, which helps teachers to identify individual pupils' needs, ranging from extra support to challenging more able pupils through advanced work, and to work with pupils to set appropriate learning goals and targets.

7.3 It is vital that as many pupils as possible sit the key stage 3 tests as they assess the extent to which pupils have the basic skills they will need to fulfil their potential and take full advantage of the wider opportunities available to them at 14-19.

7.4 The data gathered about reasons for key stage 3 test absence will inform local and national strategies to minimise avoidable absence from tests and help schools to develop more effective strategies for reducing test absence levels.

7.5 This duty is intended to target schools that show a consistent pattern of high test absence. The absence criteria will be set by the Secretary of State. Schools will be advised of the criteria and written requests for reasons for absence will be sent to those schools that the Department determines have met the criteria for the provision of reasons for absence.

7.6 In order to minimise burdens on schools, the data collection method will be integrated with existing key stage 3 data collection arrangements.

7.7 Collecting and analysing the reasons for key stage 3 test absence will enable:

- Schools to understand the reasons for absence and to develop local strategies for addressing them;
- Schools and local authorities to take action to prevent avoidable absence from tests in the future;
- The Department and the relevant agencies and field forces to take action where it is most needed;

- The Department to develop and implement appropriate intervention strategies and to produce and share best practice guidance.

7.8 **Collection of reasons for test absence pilot** - in order to address Ministers' concern at the high level of absence from key stage 3 tests, the Department piloted an approach in the summer of 2007 whereby 121 schools with absence rates of 10% or above of the cohort in the 2006 tests, were invited to provide the reasons for absence from the 2007 tests. The collection of data in 2007 was voluntary. Returns were received from 72 schools and analysis of the responses received revealed reductions in key stage 3 test absence levels ranging from 74% – 88%.

7.9 Qualitative analysis of the pilot data suggests that the invitation to provide reasons for the absences alerted schools to the issue and focused their attention on reducing test absence. Indeed, many of the schools reported that they had adopted deliberate strategies which contributed to the reduction in their KS3 test absence levels.

7.10 **DCSF consultation on the data collection method** – schools and local authorities have been consulted on the proposed data collection method via a 12 week e-consultation exercise which ended on 21 December 2007. The consultation was posted on the Department's website and on Teachernet and included the results of the pilot undertaken in the summer of 2007 (see 7.8 above). Provisional analysis of the consultation feedback suggests that approximately 70% of the 21 respondents were in favour of the proposed data collection method.

7.11 **Star Chamber** – this is a body comprising local authority representatives and an Internal Scrutiny Group of data and finance experts. The main purpose of the group is to scrutinise data requests the Department makes of Local Authorities and schools. Prior to launching the e-consultation, approval on the proposed data collection was obtained from the Star Chamber.

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**

9.1 Barbara Panayi at the Department for Children, Schools and Families. Tel: 020 7925 5968 or email: barbara.panayi@dcsf.gsi.gov.uk can answer any queries regarding the instrument.