

EXPLANATORY MEMORANDUM TO
THE EDUCATION (SUPPLY OF INFORMATION ABOUT THE SCHOOL
WORKFORCE) (NO. 2) (ENGLAND) (AMENDMENT) REGULATIONS 2009

2009 No. 2266

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. **Purpose of the instrument**

This instrument amends the regulations which were drawn up to allow the collection of individual level school workforce data from schools and local authorities (LAs) in the School Workforce Census. The Census has been subject to piloting during 2008 and 2009 involving extensive review of all processes and including feedback from schools, LAs and software suppliers. These have exposed some shortcomings in the regulations which this instrument seeks to amend before the collection goes live in 2010.

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

None

4. **Legislative Context**

4.1 This instrument amends the Education (Supply of Information about the School Workforce) (No.2) (England) Regulations 2007 in the light of findings from piloting of the Census during 2008 and 2009.

4.2 The original regulations allow the sharing of data collected in the Census with various partner organisations. This instrument adds the administrator of the Teachers' Pension Scheme to that list of partner organisations.

4.3 The instrument will allow the collection of the same data items for all qualifying workers and qualifying trainees. Qualifying workers are defined in section 113(2) of the 2005 Education Act. The current regulations only allow the collection of a sub-set of data items for qualifying workers that are not teachers or teaching assistants.

4.4 The instrument also changes the period, used to determine whether or not individual level data is required for a member of staff in the Census, from one month to 28 days.

5. **Territorial Extent and Application**

This instrument applies to England.

6. European Convention on Human Rights

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

7. Policy background

7.1 The regulations list the persons to whom the Secretary of State may supply information for qualifying purposes. It was always intended to include the administrator of the Teachers' Pensions Scheme in this list and it is not known why they do not appear in the original regulations. One of the main drivers for the introduction of the Census is to rationalise existing data collections and then share the data with those who previously collected the data separately. By sharing the data with the administrator of the Teachers' Pension Scheme it should be possible in time to drop their annual collection, the Annual Service Return. During the course of the pilot, schools and LAs have expressed the strong desire that the Annual Service Return is discontinued and the data sourced from the Census. They would view the dropping of this collection and the sharing of the data with the administrator of the Teachers' Pension Scheme as a large reduction in burdens

7.2 When the Census was first specified, one of the priorities was to keep the burden of data collection and entry by schools and LAs to a minimum. It was therefore decided to restrict the collection of some data items to teachers and teaching assistants only, as the policy need for some data items was more pressing for these groups of staff. The regulations were drafted accordingly to reflect that situation. However, recent policy developments mean that there is a greater interest now in collecting these data items.

7.3 The establishment of the School Support Staff Negotiating Body (SSSNB) in July 2009 has greatly increased the requirement for more comprehensive data relating to (non-teaching) support staff working in schools. The role of the SSSNB is to consider and negotiate on matters referred to it by the Secretary of State relating to the remuneration of school support staff or conditions of employment relating to the duties or working time of school support staff. Under the new framework all maintained schools will have to follow the order issued by the Secretary of State to implement or 'have regard to' the SSSNB's agreement. The SSSNB is backed by support staff unions and employers' organisations as well as the DCSF.

7.4 The success of the new framework will depend upon the availability of more and better quality data about support staff, including details of pay, hours of work and sickness absence. These data areas were a lower priority when the original regulations were drafted to come into force from 1 September 2007. However, given the growing business need across a wide range of stakeholders, it is now our intention to include them in the scope of the Census.

7.5 Feedback from the pilot collections has indicated that providing some data for some groups of staff and not others involved additional work for many schools/LAs in order to filter out from the returns data already held about support staff within their systems. Specifying the same items for all staff records will have the additional

benefit of making it easier for schools and LAs to complete Census returns, thus reducing burdens.

7.6 The importance of managing potential increases in burdens on schools and LAs who do not hold the required items in the correct format is recognised. Therefore, the collection of the additional support staff data items will be optional until such time as full returns are possible. Even if initial returns only provide information from a sample of schools then this will still represent better data than is currently available from any other sources (namely occasional small-scale research projects). This instrument will allow the collection of the same data items for all staff and guidance will be provided for schools and LAs to make it clear which data items are required for teachers and teaching assistants only and are optional for other support staff.

7.7 The regulations state that a person should be employed or otherwise engaged to work for a period of one month or more or have completed such a period by the end of his contract for individual level information to be required on him. In order to give clearer instructions to schools, LAs and software suppliers and thus ensure consistency about the period of employment that is of interest, the instrument changes the period from one month to 28 days. It is not anticipated that this change will have any negative impact on schools or LAs but would provide clarity and consistency which would be welcomed.

7.8 This instrument is not a new regulation imposing additional burdens on schools, LAs or software suppliers. Rather it will ensure the further sharing of data collected in the Census, simplify the provision of data, and provide greater clarity on what is required from schools, LAs and software suppliers.

8. Consultation outcome

8.1 No formal consultation process has taken place in relation to these changes. This is because the Census is still in its pilot phase and there has been a massive amount of on-going communication and consultation with LAs. These have included workshops, newsletters, surveys seeking feedback on specific issues, monthly bulletins, information on the TeacherNet website, meetings with individual LAs and presentations at workshops with schools.

8.2 Regular meetings are also held with “core” software suppliers as a group, together with individual meetings and correspondence. Relevant unions and protocol partners are also kept up to date on developments with the Census.

8.3 Many lessons have been learned during the pilot process and changes have been made to the requirements and the scope of who is included in the Census to reduce the burden of the collection on schools and LAs. These amendments will not introduce any new burden on schools, LAs or software suppliers.

9. Guidance

In order to ensure that both schools and LAs understand what data will be collected in the Census, why it is collected and who it will be shared with, the DCSF uses a number of different approaches:

- (a) Preparation and guidance notes are issued with background about what is being collected, why it is being collected and information about any particular points they should be aware of;
- (b) Frequently Asked Questions are provided;
- (c) Regular workshops are run throughout the country for LAs; and
- (d) All documentation is made available on the DCSF's TeacherNet website.

10. Impact

A full regulatory impact assessment has not been produced for this instrument as it has no impact on the costs of businesses/charities/voluntary organisations.

11. Regulating small business

The legislation does not apply to small business.

12. Monitoring & review

The outcome of this instrument will be subject to an internal review after 12 months and the legislation may be amended accordingly.

13. Contact

Gill Turner at the Department of Children, Schools and Families, Tel: 0207 3408062 or email: gill.turner@dcsf.gsi.gov.uk can answer any queries regarding the instrument.