

**EXPLANATORY MEMORANDUM TO**  
**THE INFORMATION AS TO PROVISION OF EDUCATION (ENGLAND)**  
**(AMENDMENT) REGULATIONS 2011**

**2011 No. 1438**

**1.** This Explanatory Memorandum has been prepared by the Department for Education and is laid before Parliament by Command of Her Majesty.

**2. Purpose of the instrument**

These Regulations amend the Information as to Provision of Education (England) Regulations 2008 (S.I. 2008/4) (“the 2008 Regulations”) which prescribe the information that local authorities have each year to provide to the Secretary of State in relation to the provision of primary and secondary education in their area. They change the date by which information must be provided to the Secretary of State, extend the requirement for certain information about maintained schools to Academies, and make other minor changes.

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

None.

**4. Legislative Context**

Section 29 of the Education Act 1996 requires local authorities to provide the Secretary of State with information for the purpose of the exercise of the Secretary of State’s functions under the Act. Under section 29(3) local authorities have to compile such information and make such provision for research as may be required to provide the Secretary of State with prescribed information relating to the provision of primary or secondary education in the local authority’s area.

**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 Since 1994, local authorities have been required to confirm annually the number of registered pupils at, and the capacity of, each community, foundation and voluntary school maintained by the local authority. These annual School Capacity Collection returns also include local authority-wide forecasts of pupil numbers for the following five years for primary schools and the following seven years for secondary schools. Local authorities also provide a commentary setting the return in the context of geographic and demographic circumstances.

7.2 The information gathered from these returns is used to monitor the provision of places nationally and for the calculation of the capital allocations of Basic Need (BN) funding to support new pupil places.

7.3 As pupil place pressures increase and the number of schools converting to Academy status grows, more accurate and up-to-date data is needed. Increases in birth rates since 2001 and other demographic pressures have already resulted in localised need for additional places in primary school reception, year 1 and year 2 classes, and this is likely to continue. It is therefore planned for 2011 to collect more detailed forecasts, by year group and where applicable by district as well as local authority-wide, to assess more accurately pupil place pressures, in order to enable better targeting of BN funding.

7.4 In the past, coverage of the annual survey has been limited to maintained primary and secondary schools. As the number of Academies increases and Free Schools are established, the time is right to extend the survey to include these establishments. From 2011, it is intended that the annual School Capacity Collection will ask local authorities to provide LA and, where relevant, district level pupil forecasts that include Academies, including city technology colleges (“CTCs”) and Free Schools as well as maintained primary and secondary schools. Local authorities are required to set out the number of pupils on roll, that is the actual number of pupils registered to attend the school, and the net capacity for maintained primary and secondary schools. The 2008 Regulations as amended will require local authorities to provide the number of pupils on roll in Academies, CTCs and Free Schools.

7.5 While the School Capacity Collection currently verifies the net capacity of community schools, this method of measurement is not available for Academies and CTCs, which as further schools convert will represent a significant portion of pupil capacity. The only measure that exists to assess the number of places available across all providers is a school’s Published Admission Number (PAN), which is the number of school places that the admission authority must offer in each relevant age group of a school for which it is the admission authority. As amended the 2008 Regulations will require local authorities to provide the PAN for each maintained school, Academy, (including free schools) and CTC.

7.6 As part of the annual School Capacity Collection, local authorities are required to set their school capacity return in the context of local geographic and demographic circumstances. The 2008 Regulations as amended will require local authorities to provide information in the commentary on local areas or schools where there is expected to be a

shortfall of places and information of any plans to secure additional capacity, including how and when this will be delivered. Local authorities are also required to provide information on any other changes to capacity that will significantly impact on the number of existing places in the Authority, such as school closures.

## Consolidation

7.7 It is proposed that the 2008 Regulations may be consolidated with the relevant school admissions regulations, as part of the 2011 wider policy review and public consultation of the admissions legislative framework. This arrangement would provide a more concise framework in early 2012 upon which the admissions policies for maintained schools and Academies are locally consulted and determined.

## **8. Consultation outcome**

8.1 The changes made by these Regulations were all agreed by the Department for Education's Star Chamber on 8th February 2011. The Star Chamber assesses all Departmental proposals for new data and research collections relating to children and young people, aiming to reduce bureaucracy impacting on schools and local authority children's services. The Star Chamber is formed from local authority representatives involved in children's services data, including education, social care and early years, plus serving headteachers from primary and secondary education.

## **9. Guidance**

Guidance on the changes will be provided to local authorities as part of the annual survey.

## **10. Impact**

An Impact Assessment has not been prepared for this instrument as it has no impact on business, charities or voluntary bodies.

## **11. Regulating small business**

The legislation does not apply to small business.

## **12. Monitoring & review**

The collection process, and data from the collection are monitored and reviewed each year, with emphasis on any changes to ensure that the collection is effective. The data is appraised and ensured as being accurate and robust before being used for allocation purposes. This includes review of how well the data supports departmental needs, including allocation that reflects relative need.

## **13. Contact**

Sally Smith at the Department for Education Tel: 020 7340 7351 or email:  
Sally.Smith@education.gsi.gov.uk can answer any queries regarding the instrument.