

EXPLANATORY MEMORANDUM TO
THE EDUCATION (PUPIL REGISTRATION) (ENGLAND) (AMENDMENT)
REGULATIONS 2016

2016 No. 792

1. Introduction

- 1.1 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

- 2.1 The instrument amends the Education (Pupil Registration) (England) Regulations 2006 and will come into effect from 1 September 2016. It places a duty on the proprietor of a school to notify their local authority when they remove or add a pupil's name to the admissions register at non-standard transitions i.e. where a compulsory school-aged child leaves a school before completing the school's final year or joins a school after the beginning of the school's first year. The proprietors of schools will also be required to record the details of the pupil's residence, the name of the parent with whom they will reside and the date from which they will reside there, and the name of the destination school, where it is apparent the pupil will be moving to a new school. In addition, schools and local authorities will be required to make enquiries collaboratively where a child has not returned to school within 10 school days after an authorised absence or where a pupil is absent without authorisation for at least 20 school days. The Government has committed to carrying out a review of these amendments in September 2019 and every five years thereafter.

3. Matters of special interest to Parliament

Matters of special interest to the Joint Committee on Statutory Instruments

- 3.1 None.

Other matters of interest to the House of Commons

- 3.2 As this instrument is subject to the negative procedure and has not been prayed against, consideration as to whether there are other matters of interest to the House of Commons does not arise at this stage.

4. Legislative Context

- 4.1 Section 434 of the Education Act 1996 provides that regulations must prescribe the particulars to be contained in the registers required to be kept by the proprietor of every school. Those particulars must include the name and address of every person known to the proprietor to be a parent of a pupil at the school. The regulations must also prescribe the grounds upon which a pupil's name must be deleted from the register. The Education (Pupil Registration) (England) Regulations 2006 list fifteen grounds where a pupil's name must be removed from the register but schools are only required to notify the local authority of a deletion under five of these fifteen grounds.
- 4.2 This instrument introduces new duties on schools and strengthens existing duties under the Education (Pupil Registration) (England) Regulations 2006, following the

Government's announcement to amend regulations to improve communication and co-ordination between schools. This is to support local authorities in carrying out their duty to make arrangements to identify children missing education, under section 436A of the Education Act 1996.

5. Extent and Territorial Application

- 5.1 This instrument extends to England.
- 5.2 The territorial application of this instrument is England only.

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

What is being done and why

- 7.1 Following inspections of schools in several local authorities, Her Majesty's Chief Inspector of Schools, Sir Michael Wilshaw, wrote a letter to the Secretary of State for Education on 14 July 2015, in which he expressed concern about inconsistent practice and poor communication in identifying children who are missing education (CME). Sir Michael specifically highlighted that current regulations do not place a legal duty on schools to establish and record destinations for all pupils whose names are removed from school admission registers. He stated that this poses serious safeguarding issues that potentially expose children to the risk of harm, exploitation or radicalisation. Sir Michael recommended that the Government strengthens current regulations and related guidance to ensure schools provide regular and accurate information to local authorities.
- 7.2 The Government considers the safety of young people in our schools of paramount importance. Establishing the identities of children missing education is, therefore, a priority for all concerned, and an important step in ensuring that these children are kept safe from harm. The Government announced its intention to strengthen the regulations so that local authorities have the information they need and to improve communication and co-ordination between schools and local authorities. This should enable local authorities to quickly and effectively identify children of compulsory school age who are missing education, allowing local authorities to focus their efforts and resources more readily on children who are missing education, and less on filling information gaps.
- 7.3 This instrument closes the gap where schools are currently only required to inform local authorities where pupils' names are being deleted from the school register under five of the fifteen grounds.
- 7.4 The Government considered a number of policy alternatives, including issuing statutory guidance but regulation was felt to be more effective in ensuring compliance.

Consolidation

- 7.5 The Department intends to consolidate the Education (Pupil Registration) (England) Regulations 2006 in 2017.

8. Consultation outcome

- 8.1 The Department for Education ran an online public consultation on the proposals from 19 January 2016 to 7 March 2016.
- 8.2 91% of respondents to the consultation supported the proposals and felt that they would support local authorities in their statutory duties in making arrangements to identify children missing education. The main concern raised was the increase in administrative burdens the duty may cause local authorities and schools. To avoid placing excessive burdens on LAs and schools, these regulations provide local authorities with a discretionary power to request information on pupil movements at standard transition points. The Department will also conduct a Post Implementation Review to establish whether the regulations are effective.
- 8.3 The Government has published its response to the consultation at <https://www.gov.uk/government/consultations/identifying-children-who-are-missing-education>.

9. Guidance

- 9.1 The Department will update its statutory guidance on children missing education and safeguarding in September to reflect the new duties introduced by this instrument.

10. Impact

- 10.1 The impact on business, charities or voluntary bodies will be on independent schools, as below.
- 10.2 The impact on the public sector is will mainly be on schools, as the Regulations will introduce new duties on schools in England to notify their local authority about any pupils leaving and joining the school, and a requirement for schools to record new information in registers about pupils. There will also be an impact on local authorities due to the increase in volume of information concerning pupils that are removed from, or added to, the register of schools within the area. Schools and local authorities will also have to work collaboratively in making reasonable enquiries under regulation 8(1)(f)(iii) and (h)(iii). This will allow local authorities to identify and track children missing education more effectively and the additional information from schools will support local authorities in carrying out their duties under section 436A of the Education Act 1996.
- 10.3 An Impact Assessment is submitted with this memorandum and is published alongside the Explanatory Memorandum on the legislation.gov.uk website.

11. Regulating small business

- 11.1 The legislation applies to activities that are undertaken by small businesses.
- 11.2 No specific action is proposed to minimise regulatory burdens on small businesses.
- 11.3 As school staff numbers are proportional to the number of pupils, and the number of pupils in a school is likely to be proportional to the number of additions to and removals from the admissions register, it is unlikely that this regulation will disproportionately affect small businesses. See paragraphs 102 to 105 of the Impact Assessment.

12. Monitoring & review

- 12.1 The Government has committed to carrying out a review of these amendments in September 2019 and every five years thereafter.

13. Contact

- 13.1 Mohammed Ahmed at the Department for Education Telephone: 0161 600 1247 or email: Mohammed.Ahmed@education.gsi.gov.uk can answer any queries regarding the instrument.