

**EXPLANATORY MEMORANDUM TO**  
**THE EDUCATION (PUPIL INFORMATION) (ENGLAND) (AMENDMENT)**  
**REGULATIONS 2019**

**2019 No. 959**

**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 Education (Pupil Information) (England) (Amendment) Regulations 2019 (“the Regulations”) amend the Education (Pupil Information) (England) Regulations 2005 (S.I. 2005/1437) (“the 2005 Regulations”). The changes relate to the information which head teachers in maintained primary schools are required to include in the common transfer file (“CTF”), the purpose of which is to record information for transmission to a new school in the event that a pupil were to move school.

**3. Matters of special interest to Parliament**

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

- 3.1 None.

*Matters relevant to Standing Orders Nos. 83P and 83T of the Standing Orders of the House of Commons relating to Public Business (English Votes for English Laws)*

- 3.2 As the instrument is subject to negative resolution procedure there are no matters relevant to Standing Orders Nos. 83P and 83T of the Standing Orders of the House of Commons relating to Public Business at this stage.

**4. Extent and Territorial Application**

- 4.1 The territorial extent of this instrument is England and Wales.  
4.2 The territorial application of this instrument is England only.

**5. European Convention on Human Rights**

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

**6. Legislative Context**

- 6.1 These Regulations amend the 2005 Regulations. They make provision for the information which is to be included in a pupil’s CTF. The CTF is defined in regulation 9 of the 2005 Regulations. The purpose of the CTF is to store information about pupils at schools maintained by local authorities which may then be sent on to another school in the event that a pupil changes school. Schedule 2 to the 2005 Regulations makes provision in relation to the information to be included in a CTF.  
6.2 These Regulations amend paragraph 6(1)(d) of Schedule 2 to the 2005 Regulations. Currently, the effect of that provision is to require a CTF to include the results of

national curriculum assessments taken at the end of a key stage. The purpose of these Regulations is to require details of any national curriculum assessment to form part of the CTF whenever that assessment is taken.

- 6.3 The changes introduced by these Regulations will require the results of assessments including the multiplication tables check (introduced by amendments made to the Education (National Curriculum) (Key Stage 2 Assessment Arrangements) (England) Order 2003 S.I. 2003/1038) (by virtue of the Education (National Curriculum) (Key Stage 2 Assessment Arrangements) (England) (Amendment) Order 2019 (S.I. 2019/854)) and the phonics screening check (taken before the end of key stage 1) to be included in the CTF. Such assessments are not administered at the end of a key stage. Pupils' performance in the statutory end-of-key stage 1 assessments and statutory end-of-key stage 2 assessments and tests must be included in the CTF already.

## **7. Policy background**

### *What is being done and why?*

- 7.1 There is an existing requirement for schools and local authorities to use the CTF to send pupil data when a pupil transfers from one school to another, and that includes information about the pupil's achievements to date. The 2005 Regulations as currently in force require the CTF to include the results of national curriculum assessments taken by pupils at the end of any key stage completed.
- 7.2 We are amending the 2005 Regulations to add a requirement for the CTF to include the results of assessments which are taken at times other than the end of a key stage. That means in practice that the CTF will include the results of the phonics screening check which takes place during the first year of key stage one and the multiplication tables check which takes place during the second year of key stage two.
- 7.3 The purpose of this change is to ensure that teachers working in schools receiving pupils have access to important information that will help them to support pupils' education in the future.

## **8. European Union (Withdrawal) Act/Withdrawal of the United Kingdom from the European Union**

- 8.1 This instrument does not relate to withdrawal from the European Union / trigger the statement requirements under the European Union (Withdrawal) Act.

## **9. Consolidation**

- 9.1 None.

## **10. Consultation outcome**

- 10.1 Further to section 408(5) of the Education Act 1996, the Department for Education conducted a 6-week consultation with key stakeholders during February and March 2019. Consultees included Ofqual, Ofsted and the major teacher and head teacher unions. Three organisations responded with their views. The majority of the respondents did not raise any concerns about the proposed amendments to the 2005 Regulations. One response did not agree with the proposed amendments to the 2005 Regulations on the basis that they opposed the introduction of the multiplication tables check as a statutory assessment in general. However, the multiplication tables

check has already been introduced in law by amendments made to the Education (National Curriculum) (Key Stage 2 Assessment Arrangements) (England) Order 2003 S.I. 2003/1038) (by virtue of the Education (National Curriculum) (Key Stage 2 Assessment Arrangements) (England) (Amendment) Order 2019 (S.I. 2019/854)).

- 10.2 The Department for Education conducted a further three-week consultation with Ofqual, Ofsted and the major teacher and head teacher unions in April 2019 to clarify that the amendment to the 2005 Regulations would require the results of pupils' performance in the phonics screening check as well as the multiplication tables check to be added to the CTF. The majority of the respondents did not raise any concerns about the proposed amendment. Others raised concerns about the introduction of the multiplication tables check as a national curriculum assessment, but as above, this opposition is rooted in objections to the principle of the introduction of the multiplication tables check.
- 10.3 Additionally, the Department for Education consulted the Information Commissioner's Office ("ICO") as required under Article 36(4) of the General Data Protection Regulation. The ICO confirmed that it did not wish to provide any further input on the amendments to the 2005 Regulations.

## **11. Guidance**

- 11.1 Schools have been made aware of the forthcoming change through the government response to the primary assessment consultation, published in September 2017, through communications directly to all primary schools, and media coverage.
- 11.2 The Standards and Testing Agency's annual statutory guidance to schools on assessment and reporting arrangements for national curriculum assessments, published in autumn 2019, will set out schools legal duty to include pupils' multiplications tables check and phonics screening check results in the information that forms the CFT.

## **12. Impact**

- 12.1 There is no, or no significant, impact on business, charities or voluntary bodies.
- 12.2 There will be a limited impact on the public sector, as primary schools will be required to record the scores from the phonics screening check and the multiplication tables check in the CTF.
- 12.3 An Impact Assessment has not been prepared for this instrument because the impact on the public sector is not significant.

## **13. Regulating small business**

- 13.1 The legislation does not apply to activities that are undertaken by small businesses.

## **14. Monitoring & review**

- 14.1 The operation of the regulations will be kept under review on a periodic basis.
- 14.2 The regulation does not include a statutory review clause.

## **15. Contact**

- 15.1 Rumana Begum at the Department for Education, Telephone: 0207 654 6458 or email: Rumana.Begum@education.gov.uk, can answer any queries regarding the instrument.

- 15.2 Sharon Smith, Deputy Director for Assessment Services Division, at the Department for Education can confirm that this Explanatory Memorandum meets the required standard.
- 15.3 The Rt Hon Nick Gibb, Minister for School Standards at the Department for Education can confirm that this Explanatory Memorandum meets the required standard.