

**EXPLANATORY MEMORANDUM TO THE
EDUCATION (SCHOOL ORGANISATION PROPOSALS) (ENGLAND)
(AMENDMENT) REGULATIONS 2005**

2005 No. 1801

1. This explanatory memorandum has been prepared by The Department for Education and Skills and is laid before Parliament by Command of Her Majesty.

This memorandum contains information for the House of Lords Merits Committee.

2. **Description**

2.1 These regulations amend the Education (School Organisation Proposals) (England) Regulations 1999 (SI 1999/2213) (as amended) (“the principal regulations”) by reducing certain statutory periods applying to the process of deciding proposals to expand made by local education authorities or governing bodies in respect of secondary schools (except grammar schools). The regulations also allow up to two representatives of the governing body of a secondary school the subject of such proposals to make representations at the meeting of the School Organisation Committee deciding the proposals, and gives all secondary schools a right of appeal to the Schools Adjudicator should their proposal be rejected. In the case of primary schools, the existing right of “popular” primary schools to appeal is continued, but the definition of “popular primary school” is amended to make the criterion for appeal oversubscription rather than the number of unsuccessful appeals.

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

3.1 None.

4. **Legislative Background**

4.1 The regulations are intended to give effect to a commitment in the Department for Education and Skills’ five-year strategy to make it easier for popular and successful schools to expand. They amend regulations (as amended) made under the School Standards and Framework Act 1998.

5. **Extent**

5.1 This instrument applies to England.

6. **European Convention on Human Rights**

No statement is required.

7. Policy background

7.1 The policy background is set out in the Department for Education and Skills Five Year Strategy for Children and Learners, published in July 2004. This said that the Government was committed to a diverse school system which provided more choice for parents and pupils. In order to support that aim, the Government would amongst other things make it easier for the most popular and successful secondary (but not grammar) schools to expand by introducing a fast-track process to speed up expansion proposals. This is a fairly technical change of narrow implication, and has aroused little general interest.

7.2 The Department consulted local authorities and other stakeholders on these streamlined arrangements in autumn 2004 as part of a wider consultation on proposals in the five-year strategy. Around a third of authorities responded. Most were opposed to the policy on the grounds that the expansion of popular schools would lead to a decline in the less popular schools, particularly when rolls are falling, and that allowing schools to expand would compromise the ability of authorities to plan provision in the area. No new matters were raised in consultation, however, and the Department remains of the view that local authorities, which are responsible at a strategic level for planning school places in their areas, should organise provision in order to ensure that places are located where parents want them. Local authorities should take positive action to remove surplus places at schools where parents do not choose to send their children, and which are least successful at raising standards.

7.3 Details of the consultation exercise, and a summary of responses, are available on the DfES website at <http://www.dfes.gov.uk/consultations/conResults.cfm?consultationId=1282>.

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.

8.2 The impact of the instrument on the public sector falls on schools and local authorities, with some additional responsibilities for the Schools Adjudicator in certain circumstances. Local authorities in respect of community schools and governors of all categories of school, currently have the power to publish proposals to increase the intake and size of their schools (and local authorities may also publish proposals to increase the size of foundation schools). The effect of this instrument is to streamline the arrangements, so that schools are more able to meet increased demand from parents and pupils. School Organisation Committees will be required to inform the governing bodies of schools when their proposals are to be considered, to cater for any representation the governing body wishes to make,

and may be required to forward proposals they have rejected to the Adjudicator.

9. Contact

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