

**EXPLANATORY MEMORANDUM TO
THE EDUCATION (SHORT STAY SCHOOLS) (CLOSURE) (ENGLAND)
(AMENDMENT) REGULATIONS 2010**

2010 No 1920

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 These Regulations amend the Education (Short Stay Schools) (Closure) (England) Regulations 2010 (“the 2010 Regulations”) to the effect that references in the 2010 Regulations to “short stay school” or “short stay schools” are to be read as references to “pupil referral unit” or “pupil referral units” until such time as section 249(1) of the Apprenticeships, Skills, Children and Learning Act 2009 (“ASCLA 2009”) comes into force.

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

None

4. Legislative Context

4.1 A school established by a local authority to provide education to children under section 19 (2B) of the Education Act 1996 is called a pupil referral unit. Section 249(1) of the Apprenticeships, Skills, Children and Learning Act 2009 (“ASCLA 2009”) changes the name of pupil referral units to short stay schools. Section 249(1) was due to come into force on 1 September 2010 but it has been decided to delay commencement of that provision. However, section 249(3) of ASCLA 2009 which gives the Secretary of State the power to make the 2010 Regulations will still come into force on 1 September 2010. The Apprenticeships, Skills, Children and Learning Act 2009 (Commencement No. 2 (Amendment) and Transitional Provision) Order 2010, SI 2010/1891(C.99) makes transitional provision to provide that despite the coming into force of section 249(3) any reference in paragraph 3A of Schedule 1 to the Education Act 1996 (as inserted by section 249(3) of ASCLA 2009) to “short stay schools” is to be read as a reference to “pupil referral units” until the coming into force of section 249(1) of ASCLA 2009. The 2010 Regulations are to come into force on 1 September 2010. They refer to “short stay schools” because at the time of making it was expected that the change of name would be taking effect from 1 September 2010. Because that is not now the case these Regulations provide that references in the 2010 Regulations to a “short stay school” or “short stay schools” are read as references to a “pupil referral unit” or pupil referral units”.

5. Territorial Extent and Application

5.1 This instrument applies to England.

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

7.1 The previous government had decided to change the name of pupil referral units to short stay schools to reflect the policy proposals set out in the 'Back on Track' White Paper. This change was effected by section 249(1) of ASCLA 2009 and was due to be commenced on 1 September 2010. The 2010 Regulations reflected the change of name and were due to come into force on 1 September 2010, the same date. Consideration is being given to whether this change of name should proceed and, as a result, the commencement of 249(1) has been delayed. It is therefore necessary to amend the 2010 Regulations to reflect the fact that the units will for the time being still be known as "pupil referral units".

Consolidation

7.2 This is an amending Instrument and there is no intention to consolidate at this time.

8. Consultation outcome

8.1 None at this stage. No decision has yet been made on when to change the name of pupil referral units, the commencement of section 249(1) of ASCLA 2009 has simply been delayed. These Regulations simply make transitional provision.

9. Guidance

9.1 None. The changes made by these Regulations are technical and as there is no substantive change to the 2010 Regulations.

10. Impact

10.1 There will be no impact on business, charities or voluntary bodies.

10.2 There will be no impact on the public sector.

10.3 An Impact Assessment has not been prepared for this instrument.

11. Regulating small business

11.1 The legislation does not apply to small business.

12. Monitoring & review

12.1 The changes implemented by these Regulations are purely technical. The 2010 Regulations will be considered when the matter of the commencement of section 249(1) of ASCLA 2009 is reviewed.

13. Contact

Tim Youlden at the Department for Education Tel: 020 7340 8314 or email: timothy.youlden@education.gsi.gov.uk can answer any queries regarding the instrument.