

EXPLANATORY MEMORANDUM TO
THE SCHOOL PREMISES (ENGLAND) REGULATIONS 2012

2012 No. 1943

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 This instrument sets the standards for school premises at maintained schools in England. It replaces the Education (School Premises) Regulations 1999, and reduces and simplifies the requirements on schools. It reduces bureaucracy while ensuring that school buildings remain safe and suitable for children to be educated in.

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

3.1 None.

4. Legislative Context

4.1 In 2011, the independent Review of Education Capital recommended that the Education (School Premises) Regulations 1999 be significantly revised, so that a single, clear set of regulations applied to all schools. The Secretary of State for Education accepted this recommendation in July 2011 [Hansard, 19 July 2011: column 792]. Consultation on new regulations for England and on guidance, intended to implement the proposals to streamline and simplify the current regulations and guidance and to bring together the regulations for the independent and maintained sectors, ran from November 2011 to January 2012.

4.2 The requirements in the Regulations are mirrored in the changes being made to the Independent School Standards so that the requirements for all schools are the same.

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 There are currently two, slightly different, sets of regulations relating to school premises: the Education (School Premises) Regulations 1999, which apply to maintained schools, and the Education (Independent School Standards) (England) Regulations 2010, which apply to independent schools (including Free Schools and Academies). In 2011, the independent Review of Education Capital recommended that the school premises regulations be significantly revised, so that a single, clear set of regulations applied to all schools. This would provide clarity about the requirements for school premises, be deregulatory, and remove bureaucracy and unnecessary guidance.

7.2 The Department considered whether regulations were in fact necessary at all, and concluded that some regulation was necessary to ensure that school premises were conducive to education and that the welfare needs of children were met. The Department then consulted on proposals to revoke unnecessary regulations, streamline those that remain, and produce one clear set of requirements for school premises that apply to all schools.

7.3 Following the consultation, seven regulations are being retained: toilet and washing facilities; medical accommodation; health, safety and welfare; acoustics; lighting; water supplies; and outdoor space. These Regulations will apply the minimum standards to maintained schools only, as the power under which they are made does not apply to independent schools. They will be applied to independent schools (including Free Schools and Academies) through a parallel amendment to the Independent School Standards. Other amendments to the Independent School Standards are also being planned; a separate explanatory memorandum will be submitted covering all the amendments to those Regulations.

7.4 Some regulations are being removed, either because they duplicate other legislation (for example, load bearing structures, ventilation, heating, and drainage) or because it is not necessary to legislate in those areas (for example standard of decoration, size of classrooms, storage facilities).

Consolidation

7.5 None. These Regulations replace the Education (School Premises) Regulations 1999.

8. Consultation outcome

8.1 Consultation ran from November 2011 to January 2012. 175 responses were received from local authorities, dioceses, schools and governors, parents and technical professionals (e.g. architects and engineers). There was broad support for simplifying the existing regulations, though many responses that agreed to the proposed regulations or removal of regulations were qualified by 'yes – but only if information about expectations is included in guidance'. Comments were received about the word 'suitable', which is used throughout the regulations. This ranged from 11% of respondents on the water supplies regulation, up to 35% on the acoustics regulation. The Department has responded to concerns about expectations by clarifying the guidance. 'Suitable' is defined in the regulations as meaning suitable for the pupils in respect of whom it is provided, having regard to their ages, numbers and sex and any special requirements they may have.

8.2 A more detailed analysis of the consultation outcome is in the Summary of Consultation Responses, and the final Impact Assessment, both of which are available on the Department for Education's website.

9. Guidance

9.1 Supplementary information is being produced for schools and local authorities. It will be publicised through the Department for Education's regular 'Need to Know' communications.

10. Impact

10.1 The impact on business, charities or voluntary bodies is estimated to be a small annual saving of £0.02m as this is a deregulatory measure. (This will be carried out through parallel changes to the Independent School Standards).

10.2 The impact on the public sector is estimated to be an annual saving of £0.109m.

10.3 An Impact Assessment is attached to this memorandum and will be published alongside the Explanatory Memorandum on the OPSI website.

11. Regulating small business

11.1 The legislation does not apply to small business.

12. Monitoring & review

12.1 The Regulations will be reviewed internally in three years to allow enough time for some schools to be built under the new regulations. This will happen alongside evaluation of building design, and will establish whether the Regulations assist in the creation of an environment that is conducive to education. The Regulations may be amended accordingly.

13. Contact

Sally Smith at the Department for Education, tel: 0207 340 7351 or email: sally.smith@education.gsi.gov.uk, can answer any queries regarding the instrument.