

EXPLANATORY MEMORANDUM TO
THE EDUCATION (INFORMATION ABOUT INDIVIDUAL PUPILS) (ENGLAND)
(AMENDMENT) REGULATIONS 2020

2020 No. 965

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.
- 1.2 This memorandum contains information for the Joint Committee on Statutory Instruments.

2. Purpose of the instrument

- 2.1 The instrument amends the Education (Information About Individual Pupils) (England) Regulations 2013 (“the 2013 Regulations”) to enable the collection of all categories of attendance as specified in the Education (Pupil Registration) (England) Regulations 2006 as amended (“the 2006 Regulations”). This includes information recorded in relation to all attendances and non-attendances (where recorded in the school’s electronic management information system), in relation to individual pupils.
- 2.2 The information currently collected in relation to attendance through the School Census is used for producing absence statistics. The data helps us to gain a greater understanding of the level of, and the reasons for, absence. By extending the data collected through the School Census from January 2021 to include all categories of school attendance, rather than just absence, these Regulations will improve insight to better understand patterns of pupils attendance and absence and aid future policy development. The extension will enable us to retain our focus on reducing absence from school, but also to understand better the overall pattern of school attendance.
- 2.3 The data collected about the recently created category of non-attendance (‘not attending in circumstances relating to coronavirus’), will be used to enable the department to report to the centre of government and feed into departmental briefings including informing the Office of National Statistics (ONS), Public Health England (PHE) and the Scientific Advisory Group for Emergencies (SAGE).

3. Matters of special interest to Parliament

Matters of special interest to the Joint Committee on Statutory Instruments

- 3.1 The amendments were originally planned to come into force on 1 January 2021 (for the beginning of a school term), but this has been brought forward to 1 October 2020 to allow the early collection of data relating to attendance and non-attendance (includes not attending in circumstances relating to coronavirus) to meet reporting requirements due to the coronavirus (COVID-19) pandemic.
- 3.2 Updated guidance has already been provided to schools on how to record attendance and non-attendance for the Autumn term for collection in January 2021. Bringing these amendments into force early will place no additional burden on schools.

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)

- 3.3 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.

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 The 2013 Regulations specify the information about individual pupils (and former pupils) that certain schools in England must, under section 537A of the Education Act 1996, provide to the Secretary of State or other specified persons on request. They provide the legislative underpinning for the School Census collection.

6.2 These Regulations amend the provisions of the 2013 Regulations that specify the information that schools must provide in relation to the pupil's attendance record. They require that, for each pupil or former pupil, the school must provide (if asked) the number of sessions the pupil could have attended in the requested period and how many of those sessions were recorded in each of the categories of attendance as specified in the Education (Pupil Registration) (England) Regulations 2006 as amended ("the 2006 Regulations").

6.3 Where the school uses an electronic management information system (or a compatible add-on system) to record information about attendance, the amendments made by these Regulations also require the school to provide any requested information recorded in that system in relation to the pupil's attendances and non-attendances, rather than just their absences as under the 2013 Regulations as originally made. As the 2006 Regulations currently stand, "attendances and non-attendances" covers: present; absent (authorised); absent (unauthorised); attending an approved educational activity; unable to attend due to exceptional circumstances; and not attending in circumstances relating to coronavirus. If categories are added, removed, or changed by future amendments to the 2006 Regulations, they will also be included in the range of attendances and non-attendances to which these Regulations apply.

6.4 In particular, the Education (Pupil Registration) (England) (Coronavirus) (Amendment) (No. 2) Regulations 2020, which came into force on 24 August 2020, created a new way of recording certain non-attendances for the 2020-2021 school year, where a pupil is not attending in circumstances relating to coronavirus. Non-attendance recorded in this way is not currently within the scope of the information that the 2013 Regulations require schools to provide, but it will form part of what they are required to provide (if requested) as a result of the amendments made by these Regulations.

7. Policy background

What is being done and why?

- 7.1 The School Census collects information about individual pupils and information about schools, such as their educational provision. The individual pupil information collected is widely used by the Department's policy divisions, other government departments, local authorities, external agencies and educational researchers. Analysis of individual pupil records supports the drive to raise standards, the accurate targeting of funding and the monitoring and development of policy.
- 7.2 The department currently collects data from schools about pupil absence and the reasons for it but not about attendance or kinds of non-attendance that are not classified as "absence" in the 2006 Regulations. This data will continue to be collected as at present. The amendments allow the extension of the School Census to additionally collect data on all categories of school attendance, including the new category of non-attendance in circumstances relating to coronavirus (inserted into the 2006 Regulations by the Education (Pupil Registration) (England) (Coronavirus) (Amendment) (No. 2) Regulations 2020).. This additional data collection includes information such as whether a pupil is not attending school due to following public health guidance (e.g. shielding/self-isolating/quarantining), or whether the pupil is attending off site educational activity.
- 7.3 Bringing these amendments into force before the School Census takes place in January 2021 will allow the early daily collection of data directly from school systems in October which is crucial as it will allow the department to report to the centre of government about school attendance and absence during the ongoing pandemic. It places no additional burdens as schools will already be recording the new categories in readiness for January School Census which collects the data for the Autumn term in arrears.
- 7.4 The additional insight gained from the extension will aid future policy development on school attendance, including the possible consolidation of the 2006 Regulations and tackling persistent absence. Collection of information recorded in relation to the reasons for attendances and non-attendances, only covers schools where codes are used and recorded in their electronic management information (MI) systems (as currently happens with the reasons for absence). Where other details (for example annotations) are also recorded in an MI system, the amendments also require this to be provided if requested although there are no current plans to request this as part of the School Census.
- 7.5 The data collected about the new category of non-attendance (not attending in circumstances relating to coronavirus), will enable a national view of the scale and distribution of this type of non-attendance and provide us with insights into its efficacy to inform any change we may need to make ahead of the 2021 to 2022 academic year in order to maintain an efficient school attendance system.
- 7.6 The data collection enabled by these amendments will allow the department, the Office of National Statistics (ONS), Public Health England (PHE) and the Scientific Advisory Group for Emergencies (SAGE) to track key metrics to make policy and operational decisions. It will help build a detailed picture of school attendance/absence so that we can focus support more effectively, monitor the impact and ensure safety.

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 The department currently has no plans to consolidate the 2013 Regulations.

10. Consultation

10.1 There is no statutory duty to consult on the contents of this instrument. We have discussed our approach with school leaders, local authority representative bodies and Ofsted as part of the policy making process and informal consultations and they agree with our approach.

11. Guidance

11.1 Guidance for schools and local authorities on how to [complete the School Census](#) collection is reviewed at least annually. We have updated the 2020 to 2021 guidance to reflect the changes to this collection. This details the new data being collected and how local authorities should respond. Changes to collections are also highlighted in newsletters and bulletins.

12. Impact

12.1 There is no, or no significant, impact on business, charities or voluntary bodies.

12.2 There is no, or no significant, impact on the public sector.

12.3 An Equalities Impact Assessment has been carried out and based on our initial assessment and current available evidence, we do not expect the amendments to have an adverse effect on any of the three objectives outlined in the Public Sector Equality Duty.

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 effectiveness of the requirement on schools to provide information about the recording of attendance will be subject to an internal review after 12 months and the legislation may be amended accordingly.

15. Contact

15.1 Paul Hirst at the Department for Education, email: paul.hirst@education.gov.uk can be contacted with any queries regarding the instrument.

15.2 Jamie James, Deputy Director for Data Operations Division, at the Department of Education can confirm that this Explanatory Memorandum meets the required standard.

15.3 Nick Gibb MP, Minister of State for School Standards at the Department of Education can confirm that this Explanatory Memorandum meets the required standard.