

EXPLANATORY MEMORANDUM TO
THE EUROPEAN UNION (EUROPEAN SCHOOLS) REGULATIONS 2021
2021 No. 560

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 This instrument revokes The European Communities (European Schools) Order 1972 (SI 1972/1582); The European Communities (Privileges of the European School) Order 1990 (SI 1990/237); The European Communities (Privileges of the European School) Order 2001 (SI 2001/3674).
- 2.2 This instrument is revoking those Orders as they are redundant following the closure of European School Culham and the United Kingdom's exit from the European Union and the Convention Defining the Statute of the European Schools.

Explanations

What did any relevant EU law do before exit day?

- 2.3 The United Kingdom was a member of the Convention Defining the Statute of the European Schools by virtue of membership in the European Union. Much of the legislation relating to UK membership of that Convention was revoked on 31 December 2020. The remaining legislation currently in place relates exclusively to the former European School in the UK, European School Culham. This legislation offered certain protections to the school. As European School Culham closed on 31 August 2017 these have been redundant in UK legislation since that time.

Why is it being changed?

- 2.4 The legislation relating to European School Culham is not required as the school closed on 31 August 2017. With the United Kingdom's exit from the European Union, we automatically fell out of the Convention Defining the Statute of the European Schools and our obligation relating to the UK's relationship with the European Schools system is already committed to UK law under article 125 of the Withdrawal Agreement.

What will it now do?

- 2.5 European School Culham closed on 31 August 2017, with an accredited European School, Europa School UK, opening on its former site. The legislation being revoked by this instrument has no impact on Europa School UK as it relates exclusively to European School Culham and therefore has been redundant for several years.

3. Matters of special interest to Parliament

Matters of special interest to the Sifting Committees

- 3.1 This instrument was sent to the sifting committees on 15 March 2021. The sifting committees recommended that the instrument be laid subject to the negative procedure.

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 the United Kingdom.
- 4.2 The territorial application of this instrument is the United Kingdom.

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 This instrument revokes The European Communities (European Schools) Order 1972 (SI 1972/1582); The European Communities (Privileges of the European School) Order 1990 (SI 1990/237); The European Communities (Privileges of the European School) Order 2001 (SI 2001/3674).

7. Policy background

What is being done and why?

- 7.1 The purpose of the European Schools is to educate the children of EU officials. All EU member states are members of the system. With the UK's exit from the European Union, the UK fell out of the Convention Defining the Statute of the European Schools, the legislation relating to our membership was removed on the 31 December 2020, legislation remains, however, in UK law relating to former European School Culham.
- 7.2 The European Communities (European Schools) Order 1972 (SI 1972/1582) is no longer required as it confers legal capacity on a European School in the UK and as there is no European School in the UK this is redundant.
- 7.3 The European Communities (Privileges of the European School) Order 1990 (SI 1990/237) and The European Communities (Privileges of the European School) Order 2001 (SI 2001/3674) relate to taxation exemptions for European School Culham by virtue of its status as a European School. These exemptions are not transferable to Europa School UK.
- 7.4 Europa School UK on the former site of the European School Culham will lose its accredited European School status on 31 August 2021. Europa have transitioned to teaching the International Baccalaureate from September 2020.

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

- 8.1 This instrument is being made using the power in section 8 of the European Union (Withdrawal) Act 2018 in order to address failures of retained EU law to operate effectively or other deficiencies arising from the withdrawal of the United Kingdom from the European Union. In accordance with the requirements of that Act the Minister has made the relevant statements as detailed in Part 2 of the Annex to this Explanatory Memorandum.

9. Consolidation

- 9.1 No consolidation necessary.

10. Consultation outcome

- 10.1 Although not a requirement as the instrument relates to the reserved matter of international law the devolved administrations of Wales, Scotland and Northern Ireland were consulted by email correspondence to advise of the intention to lay the instrument and requested to contact the Department for Education with any questions or clarifications required. No such requests were received.

11. Guidance

- 11.1 No guidance is required for this statutory instrument.

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 Impact Assessment has not been prepared for this instrument because there is little to no impact.

13. Regulating small business

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

14. Monitoring & review

- 14.1 As this instrument is made under the European Union (Withdrawal) Act 2018, no review clause is required.

15. Contact

- 15.1 Sian Walker at the Department for Education Telephone: 07826 859638 or email: sian.walker@education.gov.uk can be contacted with any queries regarding the instrument.
- 15.2 Peter Drummond, Deputy Director for International Education, at the Department for Education can confirm that this Explanatory Memorandum meets the required standard.
- 15.3 Rt Hon Nick Gibb MP, Minister of State for School Standards at the Department for Education can confirm that this Explanatory Memorandum meets the required standard.

Annex

Statements under the European Union (Withdrawal) Act 2018

Part 1

Table of Statements under the 2018 Act

This table sets out the statements that may be required under the 2018 Act.

Statement	Where the requirement sits	To whom it applies	What it requires
Sifting	Paragraphs 3(3), 3(7) and 17(3) and 17(7) of Schedule 7	Ministers of the Crown exercising sections 8(1), 9 and 23(1) to make a Negative SI	Explain why the instrument should be subject to the negative procedure and, if applicable, why they disagree with the recommendation(s) of the SLSC/Sifting Committees
Appropriate-ness	Sub-paragraph (2) of paragraph 28, Schedule 7	Ministers of the Crown exercising sections 8(1), 9 and 23(1) or jointly exercising powers in Schedule 2	A statement that the SI does no more than is appropriate.
Good Reasons	Sub-paragraph (3) of paragraph 28, Schedule 7	Ministers of the Crown exercising sections 8(1), 9 and 23(1) or jointly exercising powers in Schedule 2	Explain the good reasons for making the instrument and that what is being done is a reasonable course of action.
Equalities	Sub-paragraphs (4) and (5) of paragraph 28, Schedule 7	Ministers of the Crown exercising sections 8(1), 9 and 23(1) or jointly exercising powers in Schedule 2	Explain what, if any, amendment, repeals or revocations are being made to the Equalities Acts 2006 and 2010 and legislation made under them. State that the Minister has had due regard to the need to eliminate discrimination and other conduct prohibited under the Equality Act 2010.
Explanations	Sub-paragraph (6) of paragraph 28, Schedule 7	Ministers of the Crown exercising sections 8(1), 9 and 23(1) or jointly exercising powers in Schedule 2 In addition to the statutory obligation the Government has made a political commitment to include these statements alongside all EUWA SIs	Explain the instrument, identify the relevant law before exit day, explain the instrument's effect on retained EU law and give information about the purpose of the instrument, e.g., whether minor or technical changes only are intended to the EU retained law.
Criminal offences	Sub-paragraphs (3) and (7) of paragraph 28, Schedule 7	Ministers of the Crown exercising sections 8(1), 9, and	Set out the 'good reasons' for creating a criminal offence, and the penalty attached.

		23(1) or jointly exercising powers in Schedule 2 to create a criminal offence	
Sub-delegation	Paragraph 30, Schedule 7	Ministers of the Crown exercising sections 10(1), 12 and part 1 of Schedule 4 to create a legislative power exercisable not by a Minister of the Crown or a Devolved Authority by Statutory Instrument.	State why it is appropriate to create such a sub-delegated power.
Urgency	Paragraph 34, Schedule 7	Ministers of the Crown using the urgent procedure in paragraphs 4 or 14, Schedule 7.	Statement of the reasons for the Minister's opinion that the SI is urgent.
Explanations where amending regulations under 2(2) ECA 1972	Paragraph 14, Schedule 8	Anybody making an SI after exit day under powers outside the European Union (Withdrawal) Act 2018 which modifies subordinate legislation made under s. 2(2) ECA	Statement explaining the good reasons for modifying the instrument made under s. 2(2) ECA, identifying the relevant law before exit day, and explaining the instrument's effect on retained EU law.
Scrutiny statement where amending regulations under 2(2) ECA 1972	Paragraph 15, Schedule 8	Anybody making an SI after exit day under powers outside the European Union (Withdrawal) Act 2018 which modifies subordinate legislation made under s. 2(2) ECA	Statement setting out: a) the steps which the relevant authority has taken to make the draft instrument published in accordance with paragraph 16(2), Schedule 8 available to each House of Parliament, b) containing information about the relevant authority's response to— (i) any recommendations made by a committee of either House of Parliament about the published draft instrument, and (ii) any other representations made to the relevant authority about the published draft instrument, and, c) containing any other information that the relevant authority considers appropriate in relation to the scrutiny of the instrument or draft instrument which is to be laid.

Part 2

Statements required when using enabling powers under the European Union (Withdrawal) 2018 Act

1. Sifting statement(s)

- 1.1 The Minister of State for School Standards, Rt Hon Nick Gibb MP has made the following statement regarding use of legislative powers in the European Union (Withdrawal) Act 2018:
- “In my view the European Union (European Schools)) Regulations 2021 should be subject to annulment in pursuance of a resolution of either House of Parliament (i.e. the negative procedure)”.
- 1.2 This is the case because: it has no impact on the European Schools as our commitment under the Withdrawal Agreement is now UK law or on Europa School UK as the legislation is exclusive to the now closed European School Culham. Moreover, the instrument contains no provisions falling within the scope of paragraph 1(2) of Schedule 7 to the European Union (Withdrawal) Act 2018, such that it would be required to be approved by a resolution of each House of Parliament.
- 1.3 It does not affect the provisions of any Act of Parliament.
- 1.4 It removes redundant legislation which ceased to be needed on 31 August 2017 with the closure of European School Culham.
- 1.5 There are no financial obligations or implications to this instrument.
- 1.6 The instrument has no implications on criminal law and is not of special importance.
- 1.7 The minimal significance of the instrument makes it extremely unlikely that the House would expect to debate it.

2. Appropriateness statement

- 2.1 The Minister of State for School Standards, Rt Hon Nick Gibb MP has made the following statement regarding use of legislative powers in the European Union (Withdrawal) Act 2018:
- “In my view the European Union (European Schools) Regulations 2021 does no more than is appropriate”.
- 2.2 This is the case because: as the UK is no longer part of the European Schools system, it is no longer appropriate to retain legislation relating to it. It will ensure that the statute book is clear and coherent.

3. Good reasons

- 3.1 The Minister of State for School Standards, Rt Hon Nick Gibb MP has made the following statement regarding use of legislative powers in the European Union (Withdrawal) Act 2018:
- “In my view there are good reasons for the provisions in this instrument, and I have concluded they are a reasonable course of action”.

- 3.2 These are: membership of the European Schools system is intrinsically linked to European Union membership. As the United Kingdom is no longer a member of the European Union and as a consequence is also no longer a member of the Convention defining the Statute of the European Schools removal of the legislation regarding the European Schools is a reasonable course of action.

4. Explanations

- 4.1 The explanations statement has been made in section 2 of the main body of this explanatory memorandum.