

## **Explanatory Memorandum to the Education (Maintained Special Schools) (Wales) (Amendment) Regulations 2009**

This Explanatory Memorandum has been prepared by the Curriculum and Assessment Division of the Department for Children, Education, Lifelong Learning and Skills, and is laid before the National Assembly for Wales in accordance with Standing Order 24.1.

### **Description**

These Regulations amend the Education (Maintained Special Schools) (Wales) Regulations 1999 so as to allow a sixth form pupil to withdraw from religious worship at a special school if the pupil so wishes. This aligns the law with that for mainstream schools in section 71 of the School Standards and Framework Act 1998 as amended by section 55 of the Education and Inspections Act 2006.

### **Matters of special interest to the Subordinate Legislation Committee**

None

### **Legislative Background**

The Welsh Ministers are making these regulations under section 71(7) of the School Standards and Framework Act 1998 as amended by section 55 of the Education and Inspections Act 2006. That regulation making function was transferred to the Welsh Ministers by virtue of the National Assembly for Wales (Transfer of Functions) Order 1999, section 180 of the Education and Inspections Act 2006 (as amended by paragraph 88 of Schedule 1 to the Education and Skills Act 2008 (c.25)) and paragraph 30 of Schedule 11 to the Government of Wales Act 2006 (c.32).

### **Purpose and intended effect of the legislation.**

These Regulations will allow a sixth form pupil to withdraw from religious worship at a maintained special school if the pupil so wishes. Currently it is only the parent of a child who can make such a request (and it will continue to be for parents of children other than sixth formers to make such requests after these Regulations are in place).

### **Implementation**

It is intended that these Regulations come into force on 9 February 2009, at the same time as the provision enabling sixth formers in mainstream schools to withdraw from collective worship so as to ensure that sixth formers at all such schools are treated equally and so as to comply with the duty to make these Regulations which applies from the date the amendment to section 71 of the Schools Standards and Framework Act 1998 is in force.

### **Consultation**

No consultation was undertaken on these Regulations as they are required to be made in the terms they are made under section 71 of the Schools

Standards and Framework Act 1998 as amended by section 55 of the Education and Inspections Act 2006. A small -scale consultation was undertaken by DFES when the legislation on the Education and Inspection Act was going through Parliament.

### **Regulatory Impact Assessment**

As the Regulations are made in the exercise of statutory powers granted by primary legislation which do not in any way give the Welsh Ministers a discretion as to how those powers should be exercised a regulatory impact assessment is not required.