

**EXPLANATORY MEMORANDUM TO THE**  
**Education (School Performance Targets) (England)**  
**(Amendment) Regulations 2004**

**2004 No. 2858**

1. This explanatory memorandum has been prepared by the Department for Education and Skills and is laid before Parliament by Command of Her Majesty.

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

2. **Description**

2.1 This Statutory Instrument allows schools to include external qualifications approved by the Qualifications and Curriculum Authority when setting targets for pupils aged 15 and to include a requirement for schools to report their targets to local education authorities. The Statutory Instrument will further provide Governing Bodies provision to amend the targets set for pupils at the end of third Key Stage for the school year 2004-05 when setting its targets for the school year 2005-06 and that where this occurs there is not a requirement to publish information about the revised target.

3. **Matters of special interest to the [Joint Committee on Statutory Instruments *or* the Select Committee on Statutory Instruments]**

3.1 None

4. **Legislative Background**

4.1 Section 19 of the Education Act 1997 gives the Secretary of State power to require governing bodies of schools to set and publish targets in respect of pupil performance in public examinations and National Curriculum assessment.

4.2 These regulations replace the Education (School Performance Targets) England Regulations 1998 as amended.

5. **Extent**

5.1 This instrument applies to England and Wales

6. **European Convention on Human Rights**

The Minister, Stephen Twigg has made the following statement under section 19(1) (a) of the Human Rights Act 1998:

In my view the provisions of the Education (School Performance Targets) (England) (Amendment) (No. ) Regulations 2004 are compatible with the Convention rights

7. **Policy background**

**7.1 Key Stage 4** – These regulations provide for schools to set targets in respect of pupil attainment in the wider range of qualifications approved by the QCA and that schools will be required to set targets both in terms of percentage and those achieving the level 2 threshold (equivalent to 5A\*-C GCSEs) and the average point score per pupil.

In January 2003, the Secretary of State launched the document '14-19: opportunity and excellence'. The 14-19 Green Paper commits us to reporting a wider range of qualifications in the secondary school performance tables, so that institutions have no disincentive in offering a full range of opportunities tailored to individual student needs; and to ensuring that AS examinations taken early are recorded in secondary tables to remove any disincentive against accelerated progression. Up until now, performance tables have only included GCSE and GNVQ qualifications. However from 2004, performance tables will change so that some external qualifications approved by the Qualifications and Curriculum Authority (QCA) under section 96 of the Learning and Skills Act 2000 are counted. Regulations are currently being amended to allow this.

In order to include a wider range of qualifications in the performance tables, the Department asked the QCA to design a system to cover all approved equivalent qualifications. As the system designed by the QCA had to include all qualifications from entry level to level 3 it was not possible to retain the old scoring system in which a grade A\* at GCSE was awarded 8 points and a grade G 1 point. QCA have devised a new point scoring system which will award a grade A\* 58 points and a grade G 16 points. The new point scoring system will be used from 2004 in performance tables.

**7.2 Reporting of targets by school Governing Bodies to LEAs** – These regulations require governing bodies to report the targets they have set to the Local Education Authority by no later than 31 December.

In order for LEAs to determine their targets for all key stages, it is necessary for them to know the aggregate of their schools' targets. The Department's guidance advises LEAs on the way in which it should set targets in light of the targets set by the schools, including the level of challenge to be built in. Furthermore, LEAs are required to report both their own and their schools' targets to the Department as part of the EDP planning process.

In 2004, the information provided to the Department was incomplete because some schools did not inform the LEA of the targets they set. With all target-setting now beginning with schools, it is essential for the setting of sensible and realistic LEA targets that they receive information on the targets set by their schools. It is also not possible for LEAs to fulfil the requirement to report information on school targets to the Department which is part of the statutory planning process. Governing Bodies are required to publish their targets in the annual report to parents but this is likely to be after the deadline for them to be reported to the Department.

**7.3 Key Stage 3** - These regulations provide secondary schools with an option to revise their targets for 2005. This applies to situations where they feel the target set maybe unrealistic given their 2004 results and the target they believe they should set for 2006, we believe they should be given the chance to revise those 2005 targets to give a more sensible trajectory. This will only be necessary for a small number of

schools but will nevertheless ensure greater credibility for the target-setting process. This was agreed last year for primary schools and an amendment was introduced to the Regulations to give effect to this for the 2004 process only.

We now propose a similar amendment for Key Stage 3 targets which would allow schools to amend their 2005 targets when setting their 2006 targets, if they wish. We are already amending the Regulations to allow schools to change their 2005 targets at Key Stage 4, because of the inclusion of wider qualifications. This will allow schools to revise their Key Stage 4 targets to provide more realistic targets if they wish to do so.

## **8. Impact**

8.1 A Regulatory Impact Assessment has not been prepared for this instrument as it has no impact on business, charities or voluntary bodies

8.2 The impact on the public sector is minimal.

## **9. Contact**

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