

**EXPLANATORY MEMORANDUM TO
THE EDUCATION (APTITUDE FOR PARTICULAR SUBJECTS) (AMENDMENT)
(ENGLAND) REGULATIONS 2006**

2006 No. 3408

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 instrument amends, for England, the list of prescribed subjects in which schools with a specialism can select up to 10% of their intake by reference to aptitude. It provides that (i) design and technology, and(ii) information technology are not prescribed subjects with effect from the school year 2008/2009 onwards, unless they were already included in a school's admission arrangements for the school year 2007/2008.
3. **Matters of special interest to the Joint Committee on Statutory Instruments**
 - 3.1 None
4. **Legislative Background**
 - 4.1 The above instrument is made in exercise of powers conferred upon the Secretary of State by sections 102(1) and 138(7) of the School Standards and Framework Act 1998.
 - 4.2 Section 102 of the School Standards and Framework Act 1998 allows an admission authority for a school with a specialism in a prescribed subject to select up to 10% of its intake by reference to applicants' aptitude in that subject or combination of subjects.
 - 4.3 Regulations made under sections 102 and 138 of the Act – The Education (Aptitude for Particular Subjects) Regulations 1999 - set out the prescribed subjects as modern foreign languages, the performing arts, the visual arts, PE or sport, design and technology, and information technology.
 - 4.4 Schools are allowed these freedoms to play to their strengths and to allow pupils with a particular aptitude for a subject to benefit from the school's expertise when he or she might not otherwise have priority for admission.
 - 4.5 These amending regulations remove, for England, design and technology and information technology from the list of prescribed subjects.
5. **Territorial Extent and Application**
 - 5.1 This instrument applies only 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 The policy objective of this instrument is to redefine the prescribed subjects in which schools with a specialism can, in future, select up to 10% of their intake by aptitude.
- 7.2 The regulations will, from the 2008-09 school year, prevent any schools in England with a specialism which do not currently select up to 10% of their intake in 'design and technology' and 'information technology' (or either in combination with another prescribed subject) from adopting such selection anew. Remaining prescribed subjects are Modern Foreign Languages; Performing Arts; Visual Arts; and Physical education or Sport.
- 7.3 This is in response to concerns expressed by the Education and Skills Select Committee in its 2004 report 'Secondary Education: School Admissions' about difficulties in separating testing for aptitude from testing by ability.
- 7.4 DfES officials surveyed the evidence of available and applied tests and sought the advice of the Schools Adjudicator on the matter and, although they could find evidence of tests being available to test aptitude in other prescribed subjects, no evidence was forthcoming that a clear test of aptitude was available for design and technology or information technology.

Consultation

- 7.5 A public consultation took place via the Department for Education and Skills Consultation website on these regulations, alongside the School Admissions Code, between 8 September and 1 December. Members of both Houses were given a copy of the draft regulations at this time as part of a consultation pack called 'School Admissions Consultation 2006'. Local authorities, schools, parent groups, faith groups and other representative organisations were consulted. No consultation responses were received on these regulations.

Consolidation

- 7.6 The Regulations amend the Education (Aptitude for Particular Subjects) Regulations 1999 in relation to England. The 1999 Regulations apply, unamended, to Wales. As the amendments are minor it is not intended to consolidate these Regulations.

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 There is no additional impact on the public sector.

9. Contact

- 9.1 Mark Earl at the Department for Education and Skills Tel: 0207 925 5620 or e-mail: mark.earl@dfes.gsi.gov.uk can answer any queries regarding the instrument.