

**EXPLANATORY MEMORANDUM TO
THE NATIONAL CURRICULUM (EXCEPTIONS FOR FIRST, SECOND,
THIRD AND FOURTH KEY STAGES) (ENGLAND) (AMENDMENT)
REGULATIONS 2014**

2014 No. 1866

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

2. Purpose of the instrument

2.1 This instrument amends The National Curriculum (Exceptions for First, Second, Third and Fourth Key Stages) (England) Regulations 2013 and provides for the current programmes of study for English and mathematics to be disapplied in relation to pupils in the final year of the fourth key stage at maintained schools during the 2015/16 school year. During this period such schools will, however, continue to be required to teach a programme of study of their choice, as part of a broad and balanced curriculum and preparation of pupils for the end of key stage 4 examinations.

3. Matters of special interest to the Joint Committee on Statutory Instruments

3.1 None

4. Legislative Context

4.1 The instrument is made under section 91 of the Education Act 2002 (c. 32) to disapply the existing key stage 4 programmes of study for English and mathematics for pupils in the final year of the fourth key stage during the school year 2015/16.

4.2 Section 91 states that regulations may provide that the National Curriculum, or certain provisions within it, shall not apply or shall apply with modifications (as specified) in such cases or circumstances, as specified.

4.3 The instrument is subject to the consultation process in section 96 of the Education Act 2002 and is subject to the negative resolution procedure.

5. Territorial Extent and Application

5.1 This instrument applies 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 As part of the review of the National Curriculum, the Government published a National Curriculum Framework Document on 11 September 2013 which covered the whole National Curriculum except for the programmes of study for key stage 4 English,

mathematics and science. The majority of the new programmes will be taught from September 2014 and the majority of the current programmes of study have been disapplied during school year 2013/14.

7.2 Ministers agreed to prepare the key stage 4 programmes of study for English and mathematics in tandem with the development of new GCSE content for these subjects because at key stage 4 schools pay attention to both the GCSE subject content and the programmes of study in preparing pupils for the end of key stage 4 examinations. The programmes of study for these key stage 4 subjects were disapplied for an extra school year (2014/15) to allow work on GCSE content to complete. The agreed GCSE subject content for English and mathematics was published in November 2013 and will be taught from September 2015. The new key stage 4 programmes of study for English and mathematics will accordingly come into effect alongside the new GCSEs.

7.3 The programmes of study for key stage 4 apply to pupils in year 10 and 11 at school. Pupils in year 11 in school year 2015/16 will continue to be taught the curriculum programmes of study they have started in the previous year to enable them to sit the end of key stage 4 examinations for which they have been prepared. It is therefore important that the new programmes of study that schools will teach from school year 2015/16 apply to year 10 pupils only during 2015/16. In the Government's consultation document, published on 2 December 2013, with proposals for the new programmes of study for key stage 4 English and mathematics, it was made clear that the new programmes of study will be phased in from September 2015. These regulations provide for our proposal to phase in the teaching of the new programmes of study to be implemented.

8. Consultation outcome

8.1 There were 61 responses to the consultation on the draft programmes of study for key stage 4 English and mathematics which ran from 2 December 2013 to 3 February 2014. A summary of the responses has been published on the Department's website: www.gov.uk/government/consultations/national-curriculum-reform-england-ks4-english-and-mathematics. The responses focused on the programmes of study and respondents did not comment on the proposal to phase the teaching of the new programme of study.

8.2 The majority of respondents identified themselves as teachers and secondary school staff. As such, they would be fully cognisant of the need to introduce the new programmes of study at key stage 4 in a phased manner in the same way as the new GCSE subject content. Pupils will need to cover the whole two-year programme of study/GCSE syllabus to enable them to gain the expected knowledge of each subject and to sit the relevant examinations at the end of the two-year period.

8.3 In accordance with section 96(6) of the Education Act 2002, the Government then undertook a one-month consultation on the draft regulations alongside the draft Order and the associated documents. This consultation closed on 13 June 2014 and attracted 8 responses. One respondent commented on the draft Order and regulations by supporting the timeline for the implementation of the new programmes of study, because it would be consistent with the introduction of the new GCSEs in these subjects. The other respondents commented on the content of the programmes of study

or on the policy of the new National Curriculum, mostly reiterating comments made during the first consultation which ran from December 2013 to February 2014.

8.4 As a result of the consultation the draft regulations have been put into final form and the explanatory notes added.

9. Guidance

9.1 The Department does not consider that any guidance is necessary. However, it will endeavour to ensure through its external communications that teachers and other key stakeholders are aware of how to phase in the new programmes of study for key stage 4 pupils.

9.2 While the programmes of study are disapplied, schools will be free to continue to use the current National Curriculum programmes of study or the proposed new ones that will be available in the autumn, if they so wish.

10. Impact

10.1 No impact on business, charities or voluntary bodies is expected. An Impact Assessment has not been prepared for this instrument because no impact is envisaged.

11. Regulating small business

11.1 The legislation does not apply to small business.

12. Monitoring & review

12.1 This instrument will not be subject to monitoring or review as it is envisaged that the new programmes of study will be introduced from September 2015 for pupils in the first year of key stage 4 and to all key stage 4 pupils from September 2016.

13. Contact

Maleck Boodoo (Tel: 0207 3408119 or email maleck.boodo@education.gsi.gov.uk) at the Department for Education can answer any queries regarding the instrument.