

**EXPLANATORY MEMORANDUM TO**  
**THE SPECIAL EDUCATIONAL NEEDS AND DISABILITY (AMENDMENT)**  
**REGULATIONS 2024**

**2024 No. 535**

**1. Introduction**

- 1.1 This explanatory memorandum has been prepared by the Department for Education and is laid before Parliament by Command of His Majesty.

**2. Declaration**

- 2.1 David Johnston, Minister for Children, Families and Wellbeing at the Department for Education can confirm that this Explanatory Memorandum meets the required standard.
- 2.2 Suzy Powell, Deputy Director for SEND and AP National Standards Division, at the Department for Education can confirm that this Explanatory Memorandum meets the required standard.

**3. Contact**

- 3.1 Jo FitzGerald at the Department for Education, Jo.Fitzgerald@education.gov.uk, can be contacted with any queries regarding the instrument.

**Part One: Explanation, and context, of the Instrument**

**4. Overview of the Instrument**

*What does the legislation do?*

- 4.1 These Regulations change the prescribed qualification that Special Educational Needs Co-ordinators (SENCOs) must complete within three years of appointment to the role from September 2024. They replace the National Award for Special Educational Needs Co-ordination (NASENCo) qualification with a new National Professional Qualification (NPQ) for SENCOs, set out the date from which the NPQ will become the mandatory qualification, and the period by which any SENCOs in the process of undertaking the NASENCo will be required to complete that course. This will ensure that SENCOs are suitably qualified for the role.

*Where does the legislation extend to, and apply?*

- 4.2 The extent of this instrument (that is, the jurisdiction(s) which the instrument forms part of the law of) is England and Wales.
- 4.3 The territorial application of this instrument (that is, where the instrument produces a practical effect) is England.

**5. Policy Context**

*What is being done and why?*

- 5.1 All mainstream schools, including academies, and maintained nurseries are required to have a qualified teacher, or the headteacher, designated SENCO. The key responsibilities of the SENCO are set out in the SEND Code of Practice.

- 5.2 SENCOs appointed after 1st September 2009, who have not previously been the SENCO at that or any other relevant school for a total period of more than twelve months are currently required to hold the NASENCo by the third anniversary of the date on which they became the SENCO.
- 5.3 In the SEND and Alternative Provision (SENDAP) Improvement Plan<sup>1</sup>, published in March 2023, the Department for Education (The Department) announced that a new NPQ for SENCOs would be developed to replace the existing NASENCo as the mandatory qualification for the SENCO role.
- 5.4 The introduction of the new NPQ for SENCOs will play a key role in achieving the Department’s ambition to improve outcomes for children and young people with SEND by ensuring SENCOs consistently receive high-quality, evidence-based training. This is crucial given the central role SENCOs play in supporting pupils with SEND.
- 5.5 This Order introduces the NPQ as the mandatory qualification for SENCOs from September 2024. The existing three-year window to complete the mandatory qualification upon taking up a SENCO post will remain following the introduction of the NPQ for SENCOs.
- 5.6 SENCOs appointed prior to 1st September 2009 will continue to be exempt from undertaking the NPQ as they are considered to have the necessary experience for the role.

## **6. Legislative and Legal Context**

### *How has the law changed?*

- 6.1 These regulations are made under sections 67(3), 135(2) and (3) of the Children and Families Act 2014. Section 67 of the Children and Families Act 2014 (The Act) requires the appropriate authority of mainstream schools and maintained nursery schools to designate a member of staff as the SENCO and ensure they have the prescribed qualifications and/or experience for the role. Regulations 49(4) and (5) of the Special Educational Needs and Disability (SEND) Regulations 2014 define the current qualification that SENCOs must take and the timescales in which the qualification must be completed. These regulations amend regulation 49 to provide for the NPQ for SENCOs and set out the timescales for completion of the NASENCo.

### *Why was this approach taken to change the law?*

- 6.2 This is the only possible approach to make the necessary changes.

## **7. Consultation**

### *Summary of consultation outcome and methodology*

- 7.1 In March 2022, the Department launched a 16-week public consultation on the SENDAP green paper<sup>2</sup>. This set out proposals for plans to improve the experience and outcomes for children and young people with SEND. This included replacing the NASENCo with a new National Professional Qualification (NPQ).

---

<sup>1</sup> [https://www.gov.uk/government/publications/send-and-alternative-provision-improvement-plan?utm\\_source=17%20July%202023%20C19&utm\\_medium=Daily%20Email%20C19&utm\\_campaign=DfE%20C19](https://www.gov.uk/government/publications/send-and-alternative-provision-improvement-plan?utm_source=17%20July%202023%20C19&utm_medium=Daily%20Email%20C19&utm_campaign=DfE%20C19)

<sup>2</sup> [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/1139561/SEND\\_and\\_alternative\\_provision\\_improvement\\_plan.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1139561/SEND_and_alternative_provision_improvement_plan.pdf).

- 7.2 The Department held or attended 175 events during the 16-week consultation period and spoke to over 4,500 people, including SEND sector organisations, Local Authorities, schools, parents of children with SEND and children and young people with SEND.
- 7.3 Almost 6,000 responses to the green paper consultation were received. Responses to the consultation showed that the proposal to introduce the new NPQ was broadly supported, with only 20% of respondents disagreeing.
- 7.4 The Department published an independent analysis of the consultation responses alongside the government's response to the consultation in the SENDAP Improvement Plan.

## **8. Applicable Guidance**

- 8.1 The SEND Code of Practice provides statutory guidance on the role of SENCOs. However, as the SEND Code of Practice is unlikely to be updated until 2026 to account for wider changes needed following publication of the SENDAP Improvement Plan, we have published non-statutory guidance as an interim measure alongside the revised SEND Regulations. The guidance will be available from 22<sup>nd</sup> April 2024 on gov.uk.

## **Part Two: Impact and the Better Regulation Framework**

### **9. Impact Assessment**

- 9.1 A full Impact Assessment has not been prepared for this instrument because there is no, or no significant, impact on business, charities or voluntary bodies.

#### *Impact on businesses, charities and voluntary bodies*

- 9.2 There is no, or no significant, impact on business, charities or voluntary bodies because the legislation does not apply to them.
- 9.3 The legislation does not impact small or micro businesses.
- 9.4 There is no, or no significant, impact on the public sector because this is a change to the mandatory qualification that SENCOs working in maintained settings are required to take.

### **10. Monitoring and review**

#### *What is the approach to monitoring and reviewing this legislation?*

- 10.1 Individual compliance with the requirement for SENCOs to undertake mandatory training will continue to be monitored following the introduction of the NPQ. The Department will receive information regarding learner numbers from Providers of the NPQ enabling us to understand take up of the qualification and the impact of the change.
- 10.2 The instrument does not include a statutory review clause.

## **Part Three: Statements and Matters of Particular Interest to Parliament**

### **11. Matters of special interest to Parliament**

- 11.1 None.

**12. European Convention on Human Rights**

- 12.1 As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

**13. The Relevant European Union Acts**

- 13.1 This instrument is not made under the European Union (Withdrawal) Act 2018, the European Union (Future Relationship) Act 2020 or the Retained EU Law (Revocation and Reform) Act 2023 (“relevant European Union Acts”).