EXPLANATORY MEMORANDUM TO

THE EDUCATION (AMENDMENT OF THE CURRICULUM REQUIREMENTS FOR THE FOURTH KEY STAGE) (ENGLAND) ORDER 2012

2012 No. [ ]

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

2. Purpose of the instrument

2.1 This Order removes the requirement on maintained schools to provide work-related learning ("WRL") as part of the National Curriculum for the fourth key stage.

2.2 WRL is defined, in section 85(10) of the Education Act 2002 ("the 2002 Act") as 'planned activity designed to use the context of work to develop knowledge, skills and understanding useful in work, including learning through the experience of work, learning about work and working practices and learning skills for work'.

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

3.1 None.

4. Legislative Context

4.1 Section 85 of the 2002 Act, as substituted by S.I. 2003/2946 and modified by section 74(4) of the Education and Inspections Act 2006, makes provision for the curriculum requirements for the fourth key stage, including the duty to provide work-related learning. A new section 85 has also been substituted by section 74(1) of the Education and Inspections Act 2006 but that provision is not yet in force.

5. Territorial Extent and Application

5.1 This Order applies in relation to England.

6. European Convention on Human Rights

6.1 The Minister of State for Schools, Nick Gibb MP made the following statement regarding Human Rights:

In my view the provisions of the removal of the duty to provide work-related learning at key stage 4 are compatible with the Convention rights.

7. Policy background

7.1 The Secretary of State for Education commissioned Professor Alison Wolf of King's College London to carry out an independent review of vocational education in September 2010. She was asked to consider how vocational education for 14 to 19 year-olds can be improved in order to promote successful progression into the labour market and into higher level education and training routes. She was also asked to provide practical recommendations to help inform future policy direction, taking into account current financial constraints.

7.2 Professor Wolf's report was published in March 2011 and the DfE's response on 12 May 2011 accepted all of her recommendations, including recommendation 21: for DfE to evaluate work experience models for 16 to 18 year-olds enrolled as full-time students, not apprentices, and for reimbursing local employers flexibly. She recommended that schools and colleges be encouraged to prioritise longer internships for older students, reflecting that few young people move into full-time employment at 16; and that government should correspondingly remove the statutory duty to provide every young person in the fourth key stage with a standard amount of "work-related learning". This is consistent with the government's approach to education reform, in freeing up schools to determine what and how to teach.

7.3 Section 85 of the 2002 Act, as substituted by S.I. 2003/2946, makes provision for the curriculum requirements for the fourth key stage, including the duty to provide work-related learning. Work-related learning (WRL) has been a statutory requirement for the fourth key stage since 2004. It is defined in section 85(10) of the 2002 Act as 'planned activity designed to use the context of work to develop knowledge, skills and understanding useful in work, including learning through the experience of work, learning about work and working practices and learning skills for work'. The Order amends section 85 so as to remove WRL in line with Professor Wolf's recommendation.

7.4 We are conscious that the timing of this Order does not meet the commitment to the Merits Committee to give schools a full term's notice of SIs requiring implementation by schools. However, since this Order has the effect of removing rather than imposing a duty on schools – the duty of providing WRL in the fourth key stage – we consider that it is falls outside the spirit of the commitment and that it is preferable that this duty is removed as soon as possible to increase school freedoms.

8. Consultation outcome

8.1 A public consultation on removing the statutory duty for schools to provide every young person in the fourth key stage with work-related learning was launched on 6 October 2011 and closed on 4 January 2012. Most respondents disagreed with removing the duty. Of the 567 responses to the question "do you think that work-related learning should be removed as a statutory duty?" 89% answered "no" with only 9% responding "yes". A further 2% were not sure. The Department plans to publish the consultation report in June.

8.2 However, the Government's underlying philosophy, as outlined in the Schools White Paper of 2010, is that schools should have autonomy and freedom over the curriculum, and there should be less Government prescription. Accordingly, despite the consultation responses, the Government considers that WRL should be removed as a compulsory part of the curriculum. Schools that want to continue to provide WRL will be free to do so.

9. Guidance

9.1 We plan to inform schools and colleges in June of our intention, subject to the will of Parliament, to remove the duty with effect from September 2012. This information will enable schools to plan their new curriculum for the 2012/13 academic year. If Parliament approves the Order we will confirm the removal of the duty with a further announcement.

10. Impact

10.1 The impact on business, charities or voluntary bodies is minimal.

10.2 The impact on the public sector is minimal – schools will be relieved from an existing duty.

10.3 An Impact Assessment has not been prepared for this instrument.

11. Regulating small business

11.1 The legislation does not apply to small business.

12. Monitoring & review

12.1 We are not planning to review.

13. Contact

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