EXPLANATORY MEMORANDUM TO

THE EDUCATION (AMENDMENT OF THE CURRICULUM REQUIREMENTS FOR SECOND KEY STAGE) (ENGLAND) ORDER 2013

2013 No. [XXXX]

1. 1.1 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 instrument provides for making a foreign language a foundation subject of the national curriculum at the second key stage. If this instrument is approved our intention is subsequently to make the attached draft instrument, which defines a foreign language for the purposes of this instrument, so that from 2014 maintained primary schools will be required to teach one of the prescribed languages.

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

3.1 None.

4. Legislative Context

4.1 The instrument amends section 84 of the Education Act 2002 (c. 32) to add a foreign language as a foundation subject in the national curriculum for England for the second key stage. Section 84 provides for the curriculum requirements for the first, second and third key stages.

4.2 The instrument is subject to the consultation process in section 96 of the Education Act 2002, which requires a consultation on the proposal and then a consultation on the draft order, and is subject to the affirmative resolution procedure.

5. Territorial Extent and Application

5.1 This instrument applies to England.

6. European Convention on Human Rights

6.1 Elizabeth Truss, Parliamentary Under Secretary of State (Education and Childcare) has made the following statement regarding Human Rights:

6.2 In my view the provisions of the Education (Amendment of the Curriculum Requirements for Second Key Stage) (England) Order 2013 are compatible with the Convention rights.

7. Policy background

7.1 A modern foreign language is currently a compulsory subject in the national curriculum for England in maintained schools at the third key stage. In January 2011 the Government launched a review of the national curriculum. After consideration of evidence from other high-performing jurisdictions, advice from key stakeholders and responses to the review's Call for Evidence, an Expert Panel for the review of the national curriculum recommended that the teaching of languages should be introduced earlier in the national curriculum. The Call for Evidence showed widespread support for this, with 82% of respondents expressing the view that teaching languages should be compulsory at the second key stage. Key stages are defined in section 82 of the Education Act 2002.

7.2 A system of non-statutory incentives has largely been successful in increasing the number of children undertaking some kind of language study at key stage 2 in maintained schools. However, the coverage and content of what is taught is inconsistent and not all children are given the opportunity to learn a language. Making a foreign language a compulsory subject at key stage 2 will increase the overall amount of languages teaching that must take place in maintained schools, and encourage greater consistency of provision, helping to improve pupils' language skills.

8. Consultation outcome

8.1 The consultation on the proposal to make foreign languages compulsory at key stage 2 ran from 6 July until 28 September 2012, and it generated 318 responses. The vast majority of respondents agreed with the Government's intention to make the teaching of a foreign language at key stage 2 statutory. They were of the opinion that children learnt new languages more easily the younger their age. They also welcomed the fact that children would receive more language teaching and agreed that a compulsory start to languages in primary school would support secondary schools with the teaching of languages and ensure more take-up by pupils in later school life and beyond. They were of the view that early language skills would be of benefit to children in understanding other cultures and societies and that communicating with people from different backgrounds would broaden their minds to an increasingly international environment.

8.2 A draft of the proposed Order and a summary of the views expressed during the public consultation were published on 16 November 2012 by the Secretary of State and a period of one month was allowed for the submission of further evidence and representations as to the issues arising. During this consultation the Government also sought views on a new proposal to specify the languages that primary schools would be required to teach. Schools would be required to select one of the following: French, German, Italian, Mandarin, Spanish or a classical language (Latin or Ancient Greek). The consultation attracted 601 responses. Very few respondents responded to the question relating to the draft Order and confirmed that they had no comments to make;

but many took the opportunity to comment on the principle of making languages compulsory in primary schools or to give their opinions on the proposed list of languages.

8.3 The majority of respondents expressed their support for the policy intention, as set out in the draft Order. One third of respondents supported the proposal to require primary schools to teach one of the seven proposed languages. A majority of respondents were not in favour of the proposal for a set list of languages. Many respondents argued that schools should be free to choose from a variety of languages and that there should be no restrictions. There were also calls for the inclusion of a range of other languages in the list, including Hebrew, Japanese, Sanskrit and others.

8.4 Having carefully considered the responses to the consultation, the Government's view is that proceeding with the proposed list is the most sensible approach to establishing the range of languages on offer at key stage 2 and providing a basis for further language study at key stage 3. It broadly reflects the languages that primary schools wish to teach, as indicated in the response to the original consultation on making languages compulsory, and therefore capitalises on primary schools' existing strengths in languages teaching. The Government believes that the list of languages does not restrict schools unnecessarily, instead it gives them a choice that extends to Mandarin, which is important economically, and Latin and Ancient Greek, which provide an important foundation to a number of modern languages, as well as covering the major European languages. The Government therefore remains minded to prescribe the languages that were consulted upon and, subject to Parliamentary approval of this Order, plans to make an Order under section 84(4) of the Act to that effect.

9. Guidance

9.1 Under the national curriculum requirements, the Department for Education will provide schools with a programme of study which sets out the key matters, skills and processes which should be taught to pupils in the second key stage. It is envisaged that schools will have the freedom to design a fuller programme of study to meet the needs of their pupils effectively, taking account of local circumstances. A draft of the programme of study was made available for consultation from 7 February until 16 April 2013.

9.2 It is intended that the statutory programme of study for a foreign language at key stage 2 will be available to schools in autumn 2013, along with new programmes of study for all other subjects of the national curriculum, so that teachers have sufficient time to plan for first teaching in September 2014.

10. Impact

10.1 No impact on business, charities or voluntary bodies is expected.

10.2 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 new programmes of study, attainment targets and assessment arrangements will be introduced from September 2014.

13. Contact

Jane Hough (Tel: 0207 2275151 or email: jane.hough@education.gsi.gov.uk; or Maleck Boodoo (Tel: 0207 3408119 or email maleck.boodoo@education.gsi.gov.uk) at the Department for Education can answer any queries regarding the instrument.