EXPLANATORY MEMORANDUM TO

THE EDUCATION (NATIONAL CURRICULUM) (FOUNDATION STAGE EARLY LEARNING GOALS) (ENGLAND) (AMENDMENT) ORDER 2007

2007 No. 1836

AND

THE EDUCATION (NATIONAL CURRICULUM) (ATTAINMENT TARGETS AND PROGRAMMES OF STUDY IN ENGLISH) (ENGLAND) (AMENDMENT) ORDER 2007

2007 No. 1841

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

2. Description

2.1 The Department for Education and Skills commissioned an independent review of early reading ("The Rose Review") which made recommendations on the teaching of reading to young children. These statutory instruments are to amend the relevant sections of the National Curriculum for England in relation to an early learning goal and the first key stage, in response to specific recommendations of the review.

3. Matters of special interest to the Joint Committee

3.1 None.

4. Legislative Background

4.1 The Rose Review was an independent review of the teaching of early reading and was completed in March 2006. It was conducted by Jim Rose, former Ofsted Director of Inspection. The findings from the review have provided authoritative guidance on the best and most effective way to teach early reading and the Government accepted his recommendations.

Although the teaching of phonics is already part of the National Curriculum, the review created a need to make some minor wording changes to the Key Stage 1 programme of study for reading and one early learning goal to ensure that these reflect the primacy phonics should have.

The early learning goals were specified for the Foundation Stage of the National Curriculum by the Education (National Curriculum) (Foundation Stage Early Learning Goals) (England) Order 2003 (S.I. 2003/391; "the 2003 Foundation Stage Order").

The Key Stage 1 programme of study for reading was specified for the purposes of the National Curriculum by the Education (National Curriculum) (Attainment Targets and Programmes of Study in English) (England) Order 2000 (S.I. 2000/1604; "the 2000 English Order"). The 2000 English Order, which covers English for Key Stages 1 to 4, that is, ages 5 to 16, is amended by the Key Stage 1 Order in respect of the programme of study "EN2 Reading" for Key Stage 1 only, that is for ages 5 to 7.

There is at the time of making these Orders a further consultation in progress concerning the use of "P scales", which are attainment targets and methods of assessment of pupils at ages 7, 11 and 14 who have special educational needs and who are working below Level 1 of the National Curriculum. It is possible that as a result of this consultation a further Order may be made amending various National Curriculum Orders including the 2000 English Order, but not the 2003 Foundation Stage Order. It is likely that any further amendment, if proceeded with, would cover Key Stages 1 to 3, that is, ages 5 to 14, and come into force on 1st September 2007.

Section 87(2) of the Education Act 2002, under which the Foundation Stage Order and the 2003 Foundation Stage Order are made, will be repealed by the Childcare Act 2006 on a date to be appointed by commencement order. Following that repeal, those orders will lapse, and the new early learning goals are expected to be set out in the "Statutory Framework for the Early Years Foundation Stage" a document which would be given effect by an order under sections 39 and 44 of the Childcare Act. It is expected that this change will take effect on 1st September 2008.

5. Territorial Extent and Application

5.1 The instruments apply to England.

6. European Convention on Human Rights

As the instruments are subject to negative resolution procedure and do not amend primary legislation, no statement is required.

7. Policy background

7.1 The National Curriculum is the framework used by all maintained schools to ensure that teaching and learning is balanced and consistent. It sets out the subjects taught and the knowledge, skills and understanding required in each subject. It also gives standards that measure how well children are doing in each subject so teachers can monitor achievement and plan to help them improve. These statutory instruments improve the references to the teaching of phonics at the Foundation Stage and Key Stage 1, strengthening wording and ensuring consistency across the age ranges.

7.2 There are particularly urgent concerns nationally about the performance of the 16% of children who do not reach the target level for their age in reading by the end of Key Stage 1 – around 87,500 children.

7.3 The Qualifications and Curriculum Authority (QCA) has drawn attention to where improvements might be made, and has emphasised the importance of phonic knowledge. Its analysis of the 2005 Key Stage 1 tests showed that teachers could raise

attainment in children's reading and spelling further if, among other things, they taught phonic knowledge and skills more thoroughly than at present.

7.4 The QCA conducted two consultations on the proposed amendments; the first being open to the public generally and the second targeting those stakeholders with a special interest in early years reading. The initial consultation lasted 12 weeks, and ran from 8th May 2006 to 31st July 2006; the second for 3 weeks from 15th January 2007 until 5th February. The consultations showed strong support for the proposals across all categories of respondent, which included foundation stage settings, covering children aged three to five, schools with children aged five to seven, schools/settings with children aged three to seven, local authorities, professional associates and other national bodies.

7.5 The Secretary of State accepted QCA's recommendation to take the amendments forward, which were then placed within draft Orders and made available for public comment on the DfES consultation website from 18th May until 17th June inclusive. Minor changes have been made to the wording of the amendments proposed by the QCA to "EN2 Reading" in the Key Stage 1 Order in considering points raised during this period. No changes have been made to the wording of the amendments proposed by the QCA to the Early Learning Goal Order.

7.6 Plans are in place to inform schools and local authorities of the amendments via notification from the National Assessment Agency (NAA) in time for the start of the autumn term 2007. New resources promoting the teaching of phonics are already available to schools and early years settings and are being promoted through the Primary National Strategy.

7.7 The Department does not intend to consolidate the 2003 Foundation Stage Order because, for the reasons given in section 4 of this memorandum, it is expected that the order will only remain in force for one more year. With regard to the 2000 English Order, as explained in that section, further amendment may shortly be made in relation to "P-scales", in addition to which further development work is being undertaken across the range of national curriculum subjects for Key Stage 3 and Key Stage 4 (ages 11-16) with a view to changes being introduced with effect from 1 September 2008. The Department will consider at an appropriate point producing a complete new order.

8. Impact

8.1 A Regulatory Impact Assessment has not been prepared for these instruments as it has no impact on business, charities or voluntary bodies. However, a Joint Equality Impact Assessment Framework has been undertaken and can be viewed at http://www.standards.dfes.gov.uk/phonics/earlyreading/.

8.2 The impact on the public sector is minimal. Teachers are already teaching phonics and these statutory instruments serve to clarify and strengthen the relevant areas of the National Curriculum for England, rather than create new areas.

9. Contact

Laura Murdoch at the Department for Education and Skills Tel: 0207 925 6928 or e-mail: laura.murdoch@dfes.gsi.gov.uk can answer any queries regarding the instruments.