EXPLANATORY MEMORANDUM TO THE

Education (National Curriculum) (Attainment Targets and Programmes of Study in Modern Foreign Languages in respect of the Third Key Stage) (England) (No.2) Order 2004

2004 No.1793

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

This memorandum contains information for the Joint Committee on Statutory Instruments.

2. Description

2.1 This Statutory Instrument replaces Statutory Instrument 2004/256 which contained an error in that the "Document" to which Statutory Instrument 2004/256 referred was wrongly described in the Order and the Explanatory Note. This instrument defines the statutory curriculum content for modern foreign languages at Key Stage 3, and by revoking Statutory Instrument 2000/1595 removes the statutory requirements relating to this subject at Key Stage 4.

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

3.1 This Statutory Instrument is being laid before Parliament for less than the 21 days usually allowed for scrutiny. This is because we wish to bring it into force on 1 August 2004 so that SI2004/256 which this Statutory Instrument replaces does not come into force. We recently discovered an error in SI2004/256 which was that the document to which it refers is wrongly described. This Statutory Instrument is made simply to correct that error and is almost identical to the SI which it replaces, the changes made being to the title of the document to which it refers and the document's publication details (being QCA and DfES, not the Stationery Office).

4. Legislative Background

4.1 Section 87 of the Education Act 2002 gives the Secretary of State power to establish a National Curriculum and to revise it by Order. A document specifying the attainment targets and programmes of study in relation to Modern Foreign Languages has been drafted and consulted upon as required by s96 of the 2002 Act.

4.2 This Order specifies that the attainment targets and programme of study for Modern Foreign Languages are as set out in that document; the provisions of the document have effect as though they had been made by the Order , pursuant to s87(5) of the 2002 Act. It replaces the Order made on 4 February 2004 and due to come into force on 1 August 2004 in which the document is incorrectly described.

5. Extent

5.1 This instrument applies to England.

6. European Convention on Human Rights

David Miliband has made the following statement under section 19(1)(a) of the Human Rights Act 1998:

In my view the provisions of the Education (National Curriculum) (Attainment Targets and Programmes of Study in Modern Foreign Languages in respect of the Third Key Stage) (England) (No.2) Order are compatible with the Convention rights.

7. Policy background

7.1 This Order replaces Statutory Instrument 2004/256 to correct an error.

7.2 Statutory Instrument 2004/256 replaced Statutory Instrument 2000/1595, and brought about a replacement of the associated Document, which the effect of redefining the statutory curriculum in that schools are no longer be required to teach modern foreign languages to all pupils in Key Stage 4. Instead this is one of a new category of entitlement areas and students within Key Stage 4 will be able to follow a course of study in a subject within the modern foreign languages entitlement area if they wish to do so.

7.3 The aim of the changes was to create curriculum flexibility so that young people can pursue their talents and aspirations while maintaining a strong focus on the basics, in line with the Government's strategy document *14-19: opportunity and excellenc*e. The Government does not believe that the existing disapplication arrangements could create the necessary flexibility, which could only be achieved by reducing the compulsory core of subjects.

8. Impact

8.1 A Regulatory Impact Assessment has not been prepared for this instrument as it has no impact on business, charities or voluntary bodies.

9. Contact

Paul McLeod at the Department for Education and Skills Tel: 0207 925 7395 or e-mail: paul.mcleod@dfes.gsi.gov.uk can answer any queries regarding the instrument.