STATUTORY INSTRUMENTS

2008 No. 1762

EDUCATION, ENGLAND

The Education (National Curriculum) (Attainment Targets and Programmes of Study in Physical Education in respect of the Third and Fourth Key Stages) (England) Order 2008

Made - - - -	*3rd July 2008*
Laid before Parliament	*10th July 2008*
Coming into force - -	*1st August 2008*

This Order is made in exercise of the powers conferred by sections 87(3)(a) and (b) and (5) and 210(7) of the Education Act 2002(**a**).

In accordance with section 96(2) of that Act, the Secretary of State referred the proposal to make this Order to the Qualifications and Curriculum Authority(**b**) ("the Authority") and gave them directions as to the time within which they were to report to him.

In accordance with subsection (3) of section 96, the Authority gave notice of the proposal to the bodies and persons mentioned in that subsection and gave them a reasonable opportunity of submitting evidence and representations as to the issues arising(**c**).

The Authority submitted their report to the Secretary of State and arranged for it to be published(**d**) in accordance with section 96(5).

In accordance with section 96(6), the Secretary of State published a draft of the proposed order and the associated documents and sent copies to the Authority and all those who were consulted by the Authority.

In accordance with section 96(7), the Secretary of State allowed a period of not less than one month for the submission of evidence and representations as to the issues arising(**e**).

The Secretary of State for Children, Schools and Families now makes the following Order:

(**a**) 2002 c. 32; section 87(5) has been prospectively amended by paragraph 10(5) of Schedule 1 to the Childcare Act 2006 (c. 21) on a date to be appointed pursuant to sections 109(2) and 110(2) of that Act.
(**b**) The Qualifications and Curriculum Authority was established under section 21 of the Education Act 1997 (c. 44).
(**c**) The Authority allowed a period of 12 weeks between 5th February 2007 and 30th April 2007 for the submission of evidence and representations as to the issues arising.
(**d**) The Authority published their report to the Secretary of State on dates between 5th June and 31st October 2007.
(**e**) The Secretary of State allowed the period between 10th March 2008 and 13th April 2008 for the submission of evidence and representations as to the issues arising.

Citation, commencement and application

1.—(1) This Order may be cited as the Education (National Curriculum) (Attainment Targets and Programmes of Study in Physical Education in respect of the Third and Fourth Key Stages) (England) Order 2008 and comes into force on 1st August 2008.

(2) This Order applies in relation to England only.

Interpretation

2. In this Order—

(a) "the Key Stage 3 Document" means the document published by the Authority on 30th August 2007 entitled "Physical education Programme of study: key stage 3";

(b) "the Key Stage 4 Document" means the document published by the Authority on 30th August 2007 entitled "Physical education Programme of study: key stage 4";

(c) "level 1 of the National Curriculum levels of attainment" is to interpreted in accordance with the description of performance at level 1 of the attainment targets contained in the booklet published by the Stationery Office entitled "Attainment Targets and Programmes of Study in Physical Education", ISBN 0113700784; and

(d) "special educational needs" is to be interpreted in accordance with section 312 of the Education Act 1996(**a**).

Specification of attainment targets and programmes of study

3. Subject to article 6(2)(b), in relation to any pupil who starts in the third key stage on or after 1st August 2008, it is directed that the provisions relating to attainment targets and the programme of study set out in the Key Stage 3 Document have effect for the purposes of specifying attainment targets and the programme of study for the third key stage in relation to Physical Education.

4. In relation to any pupil who starts in the fourth key stage on or after 1st August 2009, it is directed that the provisions relating to attainment targets and the programme of study set out in the Key Stage 4 Document have effect for the purposes of specifying attainment targets and the programme of study for the fourth key stage in relation to Physical Education.

5. For the purposes of this Order, the examples and other passages printed in grey text or within square brackets in the Key Stage 3 and Key Stage 4 Documents (which serve to illustrate the programmes of study described therein or relate to background information) do not form part of the provisions relating to attainment targets and programmes of study referred to in articles 3 and 4.

Revocation and savings

6.—(1) Subject to paragraph (2), the Education (National Curriculum) (Attainment Targets and Programmes of Study in Physical Education) (England) Order 2000(**b**) is revoked in so far as it has effect for the purposes of specifying attainment targets and programmes of study for the third and fourth key stages in relation to Physical Education.

(2) The Education (National Curriculum) (Attainment Targets and Programmes of Study in Physical Education) (England) Order 2000 continues to have effect—

(a) in relation to any pupil who started in the third key stage before 1st August 2008, for the purposes of specifying attainment targets and the programme of study for the third key stage in relation to Physical Education;

(**a**) 1996 c. 56; section 312 has been amended by paragraph 23 of Schedule 7 to the Education Act 1997, paragraph 71 of Schedule 30 to the School Standards and Framework Act 1998 (c. 31), paragraphs 1 and 56 of Schedule 9 to the Learning and Skills Act 2000 (c. 21) and paragraphs 2 and 3 of Schedule 1 to the Education and Inspections Act 2006 (c. 40).

(**b**) SI 2000/1607, as amended by SI 2007/2265.

(b) in relation to any pupil who starts in the third key stage on or after 1st August 2008, has special educational needs and is working below level 1 of the National Curriculum levels of attainment, for the purposes of specifying attainment targets for the third key stage in relation to Physical Education;

(c) in relation to any pupil who starts in the fourth key stage before 1st August 2009, for the purposes of specifying attainment targets and the programme of study for the fourth key stage in relation to Physical Education.

Jim Knight
Minister of State
3rd July 2008 Department for Children, Schools and Families

EXPLANATORY NOTE

(This note is not part of the Order)

This Order provides for attainment targets and programmes of study for Physical Education at the third and fourth key stages.

This Order gives effect to the following documents for the purposes of specifying attainment targets and programmes of study for Physical Education:

(a) "Physical education Programme of study: key stage 3", published by the Qualifications and Curriculum Authority ("the Authority") on 30th August 2007, has effect for the purposes of setting out attainment targets and the programme of study for the third key stage (article 3);

(b) "Physical education Programme of study: key stage 4", published by the Authority on 30th August 2007, has effect for the purposes of setting out attainment targets and the programme of study for the fourth key stage (article 4).

This Order revokes the Education (National Curriculum) (Attainment Targets and Programmes of Study in Physical Education) (England) Order 2000, SI 2000/1607 ("the 2000 Order") in so far as it has effect for the purposes of specifying attainment targets and programmes of study for Physical Education at the third and fourth key stages (article 6). The attainment targets and programmes of study for the first and second key stages are unchanged by this Order and continue to be specified in the 2000 Order.

This Order makes saving provisions as follows:

(a) For any pupil who started studying Physical Education at key stage 3 before 1st August 2008, the provisions of this Order which give effect to the Key Stage 3 Document do not apply. The 2000 Order continues to apply to such pupils (article 6(2)(a));

(b) For any pupil who starts studying Physical Education at key stage 3 on or after 1st August 2008 and who has special educational needs and is working below level 1 of the national curriculum levels of attainment, the 2000 Order continues to apply for the purposes of specifying attainment targets for the third key stage in relation to Physical Education (article 6(2)(b));

(c) For any pupil who starts studying Physical Education at key stage 4 before 1st August 2009, the provisions of this Order which give effect to the Key Stage 4 Document do not apply. The 2000 Order continues to apply to such pupils (article 6(2)(c)).

A copy of the Key Stage 3 Document and Key Stage 4 Document can be accessed at this weblink:

www.qca.org.uk/curriculum

A full impact assessment of the effect that this instrument will have on the business and voluntary sector is available from Angela Overington, Department for Children, Schools and Families, Sanctuary Buildings, Great Smith Street, London, SW1P 3BT and is annexed to the Explanatory Memorandum which is available alongside this instrument on the OPSI website.

£3.00

© Crown copyright 2008

Printed and published in the UK by The Stationery Office Limited
under the authority and superintendence of Carol Tullo, Controller of Her Majesty's Stationery Office and Queen's Printer of Acts of Parliament.

E2706 7/2008 182706T 19585