EXPLANATORY MEMORANDUM TO

THE EDUCATION (NATIONAL CURRICULUM) (LANGUAGES) (ENGLAND) ORDER 2013

2013 No. 2230

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 the languages that maintained schools can teach to pupils in relation to the foundation subject of a foreign language in respect of the second key stage, and to the subject of a modern foreign language in respect of the third key stage.

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

3.1 None.

4. Legislative Context

4.1 The instrument is made under section 84(A4) and (4) of the Education Act 2002 (c. 32). The instrument revokes and replaces the Education (National Curriculum) (Modern Foreign Languages) (England) Order 2008, and sets out the meaning of a 'foreign language' and a 'modern foreign language' which are foundation subjects of the national curriculum for the second and third key stages respectively.

4.2 The instrument is subject to the negative resolution procedure.

5. Territorial Extent and Application

5.1 This instrument applies to England.

6. European Convention on Human Rights

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

In my view the provisions of the Education (National Curriculum) (Languages) (England) Order 2013 is compatible with the Convention rights.

7. Policy background

7.1 Following a review of the national curriculum which was launched in January 2011, a foreign language will become a foundation subject at the second key stage from 1 September 2014. This decision was made following consideration of evidence from other high-performing education systems, advice from key stakeholders and responses to the review's call for evidence, and recommendations from the Expert Panel appointed by the Government to advise the review. The call for evidence responses showed widespread support for this change, with 82% of respondents expressing the view that teaching languages should be compulsory at the second key stage.

7.2 Following the completion of affirmative resolution procedures in June 2013, Section 84 of the Education Act 2002 was amended by The Education (Amendment of the Curriculum Requirements for Second Key Stage) (England) Order 2013 (SI 2013 No 2093) to add a foreign language as a foundation subject at the second key stage from 1 September 2014.

7.3 In relation to the existing foundation subject of a modern foreign language which is compulsory at the third key stage, maintained schools will continue to have a duty to teach the national curriculum programmes of study for the subject and have the freedom to teach any modern foreign language that meets the needs of their pupils.

8. Consultation outcome

8.1 Following the Government's decision to make foreign language teaching at the second key stage compulsory, a statutory one-month consultation opened on 16 November 2012 on the draft Order to make foreign languages compulsory. The consultation document also sought views on the Government's proposal to require primary schools to teach one of the following languages at the second key stage: Ancient Greek, French, German, Italian, Latin, Mandarin and Spanish.

8.2 This consultation attracted 601 responses. In their response to the question about the proposed list of languages, one third of respondents supported the proposal to require primary schools to teach one of the seven stated languages. However, 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.

8.3 Following consideration of the responses to the consultation as well as a range of other factors, the Government announced on 7 February 2013 its intention that schools should be required to teach one of Ancient Greek, French, German, Italian, Latin, Mandarin and Spanish at the second key stage from 1 September 2014. This list formed part of the proposed programme of study in respect of foreign languages as a subject

when the draft programmes of study for all subjects were published for consultation on the same day.

8.4 During this consultation period, further representations were received from stakeholders, including requests to remove the proposed list of languages so that schools have freedom to decide the languages that best meet the needs of their pupils.

8.5 The Government gave further careful consideration to the views expressed, and decided that languages to be taught at the second key stage should not be prescribed and that schools should have the freedom to decide which foreign language best meets the needs of their pupils, taking account of local circumstances and their ethos. This decision was announced on 8 July 2013 and this instrument therefore provides for any foreign language to be taught at the second key stage and, as now, for any modern foreign language to be taught at the third key stage.

9. Guidance

9.1 The statutory programmes of study set out the key matters, skills and processes which should be taught to pupils in each subject of the national curriculum. The Government has no plans to give schools guidance on how to prepare their lessons or teach the content of the programmes of study for the subject of a foreign language and a modern foreign language. Teachers should use their professional judgment in designing lessons and decide how best to teach them to meet the needs of their pupils. It is intended that the new programmes of study and attainment targets for most subjects of the new national curriculum, including languages, will be available to schools in autumn 2013. Schools will start teaching the programmes of study from 1 September 2014.

10. Impact

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

10.2 It is envisaged that the statutory programmes of study will cover only the key matters, skills and processes so that schools can design a fuller curriculum to meet the needs of their pupils effectively, taking account of local circumstances and other relevant factors.

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 This instrument will not be subject to monitoring or review as it is envisaged that new programmes of study and attainment targets will be introduced from 1 September 2014.

13. Contact

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