EXPLANATORY MEMORANDUM TO

THE EDUCATION (NATIONAL CURRICULUM) (SPECIFIED PURPOSE) (ENGLAND) ORDER 2011

2011 No. 2751

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 describes a new purpose for which the Secretary of State may specify arrangements for the assessment of pupils in maintained schools in England. The intention is to introduce a new "phonics screening check" for pupils in Year 1 (aged 5 or 6), and this instrument is required as the purpose of National Curriculum assessment already set out in legislation is not apt for that check. The existing purpose relates only to assessment in relation to what pupils have learnt at the end of a Key Stage of the National Curriculum for England and so does not cover assessment of pupils at the end of Year 1 of their schooling (which is halfway through Key Stage 1).

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

3.1 None.

4. Legislative Context

4.1 The Government is introducing a screening check for pupils at the end of Year 1 in Key Stage 1 (the pupils will be aged 5 or 6), to assess their ability to decode and read words using "phonics". (See section 82 of the Education Act 2002 ("the 2002 Act") as to the Key Stages of the National Curriculum.)

4.2 This instrument is the first order to be made under section 76(2) of the 2002 Act. Section 87 of that Act contains power for the Secretary of State to establish the National Curriculum for England – specifying programmes of study, attainment targets and assessment arrangements for the various Key Stages. This instrument will enable an order to be made under section 87(3)(c) of the 2002 Act which will make the check statutory for all Year 1 pupils in maintained schools in England from 2012. An assessment and reporting arrangements document or "ARA", which will have statutory effect, will be issued by the Secretary of State under powers in the section 87(3)(c) order,

5. Territorial Extent and Application

5.1 This instrument applies to England.

6. European Convention on Human Rights

6.1 As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

7. Policy background

- What is being done and why

7.1 The Government is introducing a statutory screening check for pupils at the end of Year 1 to assess their ability to decode and read words using phonics. Phonics is a method of teaching reading and spelling that trains pupils to associate sounds in the spoken language (phonemes) and their corresponding letters or letter combinations (graphemes). The check will be carried out by teachers during one pre-set week in June of each year.

7.2 Currently, a significant minority of pupils persistently under-achieve – in 2011 15% of seven year olds (i.e. at the end of Key Stage 1) failed to achieve the expected level in reading, and 19% of eleven year olds (at the end of Key Stage 2) failed to reach the expected English level. The Government believes the new screening check will provide reassurance that children have reached the right standard in phonic decoding, identify pupils who need extra help, and allow schools to benchmark their pupils' performance against national standards.

7.3 The purpose of the check is to confirm that Year 1 pupils have learned phonic decoding to an age-appropriate standard. Results from the check will inform teachers' overall assessment of the pupil, and allow strategies to be planned for Year 2 teaching (including appropriate support where needed).

8. Consultation outcome

8.1 A public consultation was held from November 2010 to February 2011 on the purpose, content, structure and administration of the phonics screening check, thus covering both this instrument and the order to be made under section 87(3)(c) of the Act (paragraph 4.2 refers). The consultation attracted over 1,000 responses (65% from teachers or head teachers, the remainder from parents and other members of the public). There were mixed reactions to the concept of introducing an assessment which focussed on phonics. Some respondents were in favour of a check which identified pupils needing extra help with their literacy, but almost all respondents agreed that the check should not be a high stakes assessment (88% agreed that school-by-school results should not be published in Performance Tables).

8.2 As a result of specific responses to the consultation, some changes were made to policy in relation to the proposed check to allow for more flexibility in the administration and scoring system. These included extending the window for schools to administer the check to one week; specifying that the check should be administered by a qualified teacher; and allowing more than one teacher in a school to administer the check. It was also confirmed that results would not be

included in school Performance Tables, and that modifications would be acceptable for children with special educational needs. A reading assessment in Year 1 was also supported by three-quarters of parents in a survey conducted by the National Confederation of Parent Teacher Associations.

8.3 Following the consultation, the screening check was trialled in a small number of schools in preparation for the pilot, which took place in June 2011and involved 300 schools. An independent evaluation of the pilot found it enabled 43 per cent of teachers to identify pupils with reading difficulties of which they were not previously aware, enabling them to target additional support to help pupils to progress. All aspects if the screening check were seen as suitable by at least 74% of teachers in the pilot.

9. Guidance

9.1 Schools have been made aware of the new screening check via extensive media coverage and direct electronic communications (email, messages on the Department for Education website).

9.2 In January 2012, the ARA referred to above will be published by the Secretary of State and issued to all schools with pupils in Year 1. The ARA will explain schools' statutory responsibilities for carrying out the check, and provide detailed instructions (of statutory effect) and include non-statutory guidance. The ARA will also be available electronically.

10. Impact

10.1 There will be no direct impact on business, charities or voluntary bodies.

10.2 The impact on the public sector is mainly related to burdens on schools and local authorities (LAs) and is in connection with the arrangements relating to the check, rather than this instrument. It is estimated that administering the test will require 4-9 minutes per child. Schools will report the results of the assessment to parents. We do not anticipate that this will represent an additional burden since schools are already required to report to parents annually on the achievement and progress their children have made.

10.3 LAs will be required to moderate a percentage of schools undertaking the check. They will also collect data from schools for submitting to the Department. Funding will be available to LAs to support this additional work: we anticipate that the task of moderation should constitute around one week's work for one member of staff per annum.

11. Regulating small business

11.1 The legislation does not apply to small business.

12. Monitoring & review

12.1 The purpose of the check is to confirm whether individual pupils have learned phonic decoding to the level expected at the end of Year 1. Although there are no

plans to discontinue the check in the future, we will monitor its effectiveness on a year-by-year basis against prevailing standards, to ensure it continues to be fit for purpose.

12.2 The results for individual schools, although not published, will be available for use by the Office for Standards in Education, Children's Services and Skills. This will ensure that school inspections focus on the quality of phonics teaching and encourage schools to use a teaching approach proven to be effective for all pupils.

12.3 The intended effect is that phonics teaching will improve to be consistently good in all schools, leading to improved reading ability and thus improve the attainment levels of many children who would otherwise fall behind.

13. Contact

Phil Elks at the Department for Education (tel: 020 7340 7011or email: phil.elks@education.gsi.gov.uk) can answer any queries regarding the instrument.