EXPLANATORY MEMORANDUM TO
THE EDUCATION (NATIONAL CURRICULUM) (ATTAINMENT TARGETS AND PROGRAMMES OF STUDY) (ENGLAND) (AMENDMENT) (NO 2) ORDER 2014

2014 No. 1941

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 amends The Education (National Curriculum) (Attainment Targets and Programmes of Study) (England) Order 2013 to give effect to a revised National Curriculum Framework Document published on 16th July 2014. It includes new programmes of study for English and mathematics for pupils in the fourth key stage at maintained schools, which will be phased in from 2015.

2.2 It also gives effect to a P Scale Document published on 16th July 2014.

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

3.1 This Order revokes the Education (National Curriculum)(Attainment Targets and Programmes of Study)(England)(Amendment) Order 2014 (S.I. 2014/1867), which was to have come into force largely on 1st September 2014. Article 3 of that Order referred to the revised Framework Document and P Scale Document by reference to their date of publication, stated as being 15th July 2014. In fact, those documents were published on 16th July 2014. Accordingly, that Order was defective. The Department decided, therefore, to revoke that Order and re-make it in substantially the same form, but containing the correct dates in Article 3.

4. Legislative Context

4.1 The instrument is made under section 87(3) (a) and (b) and (5) and 210(7) of the Education Act 2002 (c. 32) to phase in new programmes of study for English and mathematics for pupils in the fourth key stage at maintained schools from the school year 2015/16. The instrument also revises the current P Level Document and re-names it as the P Scale Document.

4.2 Section 87 provides for the establishment of the National Curriculum for England by Order. Sub-sections 3 (a) and (b) provide for the Secretary of State to specify (by Order) such attainment targets and programmes of study as he considers appropriate in relation to each of the core and other foundation subjects of the National Curriculum.

4.3 The instrument is subject to the consultation process in section 96 of the Education Act 2002, which requires a consultation on the proposal and then a consultation on the draft Order and associated documents (the revised Framework Document and P Scale Document), and is subject to the negative resolution procedure. The instrument will come into force on 1 September 2014 in relation to all the provisions, except article 3(a) which comes into force on 1 August 2015. The effect of this is threefold: (i) the P Scale Document will replace the current P Level Document (published on 24/7/2007) on 1 September 2014; (ii) the remaining provisions, except article 3(a), which phase in the new key stage 4 programmes of study for English and mathematics from 2015 and phase out the current key stage 4 programmes of study in those subjects from that date also come into force on 1 September 2014; and (iii) the revised Framework Document (containing the new key stage 4 programmes of study for English and mathematics) replaces the current Framework Document (published on 11/9/2013) on 1 August 2015.

4.4 The effect of phasing in the new key stage 4 programmes of study is that in school year 2015/16, the new Framework Document will apply to year 10 pupils, whereas in that same year the current key stage 4 programmes of study will continue to have effect in relation to year 11 pupils. In conjunction with these changes, the Department will continue to disapply the current key stage 4 programmes of study for English and mathematics in relation to year 11 pupils in the school year 2015/16. The latter will be brought into effect by making an amendment to The National Curriculum (Exceptions for First, Second, Third and Fourth Key Stages) (England) Regulations 2013.

4.5 From 2016, the new key stage 4 programmes of study for English and mathematics (as contained in the revised Framework Document) will be fully phased in and apply to all key stage 4 pupils.

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

7.1 As part of the review of the national curriculum, the Government published a National Curriculum Framework Document on 11 September 2013 which covered the whole National Curriculum except for the programmes of study for key stage 4 English, mathematics and science. The Secretary of State decided to prepare the key stage 4 programmes of study for English and mathematics in tandem with the development of new GCSE content for these subjects. This was because at key stage 4 schools pay attention to both the GCSE subject content and the programmes of study in preparing pupils for the end of key stage 4 examinations. The agreed GCSE subject content for English and

mathematics was published in November 2013 and will be taught from September 2015. The new key stage 4 programmes of study for English and mathematics will accordingly come into effect alongside the new GCSEs; so these revised programmes of study will be first taught in September 2015.

7.2 On 2 December 2013, the Secretary of State launched a public consultation on the Government's proposals for the new programmes of study for key stage 4 English and mathematics to be added to the National Curriculum Framework Document. The consultation closed on 3 February 2014 and the Department received 61 responses from schools, teachers, higher education, subject associations, local authorities and parents. The majority of the responses were similar to those made in response to the consultation to the draft GSCE subject content for English and mathematics. For English, the issues raised were the removal of speaking and listening from the English Language GCSE; not specifying texts or authors covering different cultures; and not including poetry before 1789. For mathematics, the key concerns were that the programme of study was too challenging, particularly for less able students, and that schools would need to spend more teaching time to cover the programme of study adequately. The Department has published its response to these concerns: www.gov.uk/government/consultations/national-curriculum-reform-england-ks4-english-and-mathematics.

7.3 The Secretary of State undertook a separate consultation on 2 April 2014 on the proposal to apply the P scale descriptors for the existing subject of 'modern foreign language' (which applies at key stage 3) to the new key stage 2 foundation subject of 'foreign language'. The other changes in the P Level Document are the replacement of the subject of 'Information and Communication Technology' with the new subject of 'computing', and the addition of the new subject of 'foreign language' to the list of foundation subjects along with minor, ancillary changes by way of update. These changes were not subject to the consultation because they are consequential and minor in nature and have already been implemented as part of the National Curriculum review. The consultation closed on 22 April 2014 and received 5 responses which raised no substantial issues.

7.4 The Government reviewed the content of the draft key stage 4 programmes of study for English and mathematics and the revised P Scale Document, in light of feedback to the consultation, and has now: finalised the content of the fourth key stage programmes of study for English and mathematics; accordingly, updated the National Curriculum Framework Document; and also updated the P Scale Document. The new key stage 4 programmes of study for English and mathematics will be taught by maintained schools to pupils in year 10 from September 2015 and to all key stage 4 pupils from September 2016.

8. Consultation outcome

8.1 There were 61 responses to the consultation on the draft programmes of study for key stage 4 English and mathematics which ran from 2 December 2013 to 3 February 2014. A summary of the responses has been published on the Department's website: www.gov.uk/government/consultations/national-curriculum-reform-england-ks4-english-

and-mathematics. Having carefully considered the responses to the consultation, the Government decided to proceed with plans to replace the existing programmes of study for key stage 4 English and mathematics with the new proposed programmes of study.

8.2 Specifically, the Government reviewed the content of the programmes of study in light of the consultation responses received and, in doing so, was mindful of the need to align the new programmes of study with the new GCSE content for these subjects. Like the new GCSE subject content, the new programmes of study have been designed to be more ambitious and rigorous than the existing programmes of study and place greater emphasis on teaching essential knowledge.

8.3 There were 5 responses received to the consultation on the P Level Document proposal which ran from 2 to 22 April 2014. They raised no substantive issues.

8.4 In accordance with section 96(6) of the Education Act 2002, the Government then undertook a further one-month consultation on the draft Order and draft Regulations (referred to in paragraph 4.4) and the associated National Curriculum Framework Document and P Scale Document. This consultation closed on 13 June 2014 and attracted 8 responses. One respondent provided comments on the draft Order by supporting the timeline for the implementation of the new programmes of study, particularly as it is consistent with the introduction of the new GCSEs in these subjects. The other respondents commented on the programmes of study or on the policy of the new national curriculum, mostly reiterating comments made during the first consultation which ran from December 2013 to February 2014. A summary of responses received has been published on the Department's website.

8.5 As a result of the consultation, the draft Order has been finalised and explanatory notes added. Some minor revisions to the programmes of study have also been made to ensure correct format and style. The P Scale Document has been updated as indicated.

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. Teachers should use their professional judgement and have the freedom to design lessons and decide how best to teach them to meet the needs of their pupils. Schools will start teaching the new programmes of study for English and mathematics for pupils in the fourth key stage from September 2015.

10. Impact

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

10.2 It is envisaged that the programme of study will cover only the key matters, skills and processes allowing schools to 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 the updated P Scale Document will be introduced from 1 September 2014 and the new programmes of study for key stage 4 English and mathematics will be introduced from September 2015.

13. Contact

Maleck Boodoo (Tel: 0207 340 8119 or email maleck.boodoo@education.gsi.gov.uk) at the Department for Education can answer any queries regarding the instrument.