EXPLANATORY MEMORANDUM TO THE NATIONAL CURRICULUM (EXCEPTIONS FOR FIRST, SECOND, THIRD AND FOURTH KEY STAGES) (ENGLAND) (AMENDMENT) (No. 2) REGULATIONS 2014

2014 No. 3286

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

2. Purpose of the instrument

2.1 This instrument amends The National Curriculum (Exceptions for First, Second, Third and Fourth Key Stages) (England) Regulations 2013 and provides for the current programme of study for science to be disapplied in relation to pupils in the fourth key stage at maintained schools during the 2015/16 school year and for pupils in the final year of the fourth key stage during the 2016/17 school year. During this period such schools will, however, continue to be required to teach a programme of study of their choice, as part of a broad and balanced curriculum and to prepare pupils for the end of key stage 4 examinations.

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 91 of the Education Act 2002 (c. 32) to disapply the existing key stage 4 programme of study for science for all pupils in key stage 4 during the school year 2015/16 and for pupils in the final year of the fourth key stage during school year 2016/17.

4.2 Section 91 states that regulations may provide that the National Curriculum, or certain provisions within it, shall not apply or shall apply with modifications (as specified) in such cases or circumstances, as specified.

4.3 The instrument is subject to the consultation process in section 96 of the Education Act 2002 and 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

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 majority of the new programmes of study are being taught from September 2014 and the majority of the (then) current programmes of study were disapplied during school year 2013/14.

7.2 Ministers agreed that the key stage 4 programmes of study for English, mathematics and science should be prepared in tandem with the development of new GCSE content for these subjects 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 new GCSE subject content for English and mathematics were published in November 2013 and will be taught from September 2015. The new key stage 4 programmes of study for English and mathematics were published as part of the revise National Curriculum Framework Document in July 2014, and will accordingly come into effect alongside the new GCSEs from September 2015.

7.3 The programmes of study for key stage 4 apply to pupils in year 10 and 11 at school. Pupils in year 11 in school year 2016/17 will continue to be taught the science programme of study they have started in the previous year to enable them to sit the end of key stage 4 examinations for which they have been prepared. It is therefore important that the new programme of study that schools will teach from school year 2016/17 should apply to year 10 pupils only in 2016/17. In the Government's consultation document published on 11 June 2014 with proposals for the new programme of study for key stage 4 science, it was proposed that the new programme of study will be phased in from September 2016. These regulations provide for the Government's proposal to phase in the teaching of the new programme of study to be implemented.

8. Consultation outcome

8.1 There were 54 responses to the consultation on the draft programme of study for key stage 4 science which ran from 11 June to 23 July 2014. A summary of the responses has been published on the Department's website: https://www.gov.uk/government/consultations/national-curriculum-reform-england-key-stage-4-science

8.2 24 respondents commented on the question relating to the proposal to phase the teaching of the new programme of study. The majority were in favour of phasing the new programme of study which allows schools more time to plan its introduction. The majority of respondents identified themselves as teachers and school staff. As such, they would be fully cognisant of the need to introduce the new programme of study at key stage 4 in a phased manner alongside the new GCSE subject content (published in April 2014 and to be be taught from September 2016). Pupils will need to cover the whole two-year programme of study/GCSE syllabus to enable them to gain the expected knowledge of each subject and to sit the relevant examinations at the end of the two-year period.

8.3 In accordance with section 96(6) of the Education Act 2002, the Government then undertook a one-month consultation on the draft regulations alongside the draft Order and the associated documents. This consultation closed on 30 October 2014 and attracted 12 responses. Two respondents commented on the draft regulations by

supporting the phasing and timeline for the implementation of the new programme of study, particularly as it is consistent with the introduction of the new GCSE in science. The other respondents commented on the programme of study or on the policy of the new National Curriculum, mostly reiterating comments made during the first consultation which ran from 11 June to 23 July 2014. A summary of responses received has been published on the Department's website: https://www.gov.uk/government/consultations/draft-order-and-regulations-key-stage-4-science:

8.4 As a result of the consultation the draft regulations have been put into final form and the explanatory notes added.

9. Guidance

9.1 The Department does not consider that any guidance is necessary. However, it will endeavour to ensure through its external communications that teachers and other key stakeholders are aware of how to phase in the new programmes of study for key stage 4 pupils.

9.2 While the programme of study is disapplied, schools will be free to continue to use the current National Curriculum programme of study or the proposed new one that was published on 2 December 2014, if they so wish.

10. Impact

10.1 No impact on business, charities or voluntary bodies is expected. An Impact Assessment has not been prepared for this instrument because no impact is envisaged.

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 new programme of study will be introduced from September 2016 for pupils in the first year of key stage 4 and to all key stage 4 pupils from September 2017.

13. Contact

Maleck Boodoo (Tel: 0207 3408119 or email maleck.boodoo@education.gsi.gov.uk) at the Department for Education can answer any queries regarding the instrument.