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STATUTORY INSTRUMENTS

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**2003 No. 252**

**EDUCATION, ENGLAND**

**The Education (National Curriculum) (Exceptions  
at Key Stage 4) (England) Regulations 2003**

*Made* - - - - *5th February 2003*  
*Laid before Parliament* *13th February 2003*  
*Coming into force* - - *1st September 2003*

Whereas, following the referral to it of a proposal by the Secretary of State in accordance with subsection (2) of section 368 of the Education Act 1996<sup>(1)</sup>, the Qualifications and Curriculum Authority (“QCA”)<sup>(2)</sup> has, in accordance with subsection (3) of that section, given notice thereof to the bodies and persons referred to in that subsection and afforded them a reasonable opportunity of submitting evidence and representations as to the issues arising;

And whereas, in accordance with directions given by the Secretary of State under the said subsection (2), the QCA has submitted its report to the Secretary of State in accordance with subsection (4) of the said section 368;

And whereas the QCA has, after submitting its report to the Secretary of State, arranged for it to be published in accordance with subsection (5) of that section;

And whereas the Secretary of State has published a draft of the Regulations and sent copies of it to the QCA and all those who were consulted by the QCA, and has allowed a period of not less than one month for the submission of evidence and representations as to the issues arising in accordance with subsections (6) and (7) of section 96 of the Education Act 2002<sup>(3)</sup>;

Now therefore the Secretary of State for Education and Skills, in exercise of the powers conferred on the Secretary of State by sections 91, 96 and 210 of the Education Act 2002 hereby makes the following Regulations:

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(1) 1996 c. 56. Section 368 was amended by paragraph 28 of Schedule 7 to the Education Act 1997 (c. 44). By virtue of the National Assembly for Wales (Transfer of Functions) Order 1999 (S.I.1999/672) the powers conferred by these sections are exercisable by the Secretary of State only in relation to England. For the meaning of “prescribed” and “regulations” see section 579(1).

(2) The Qualifications and Curriculum Authority was established by section 21 of the Education Act 1997.

(3) 2002 c. 32. Sections 76 to 96 came into force on 1st October 2002 (S.I. 2002/2439) and Sections 350 to 369 of the Education Act 1996 were repealed on the same date.

### **Citation, commencement and application**

1.—(1) These Regulations may be cited as the Education (National Curriculum) (Exceptions at Key Stage 4) (England) Regulations 2003 and shall come into force on 1st September 2003.

(2) These Regulations apply in relation to maintained schools in England.

### **Revocation**

2. The Education (National Curriculum) (Exceptions at Key Stage 4) Regulations 2000<sup>(4)</sup>, and the Education (National Curriculum) (Exceptions at Key Stage 4) (Amendment) Regulations 2002<sup>(5)</sup> are hereby revoked.

### **Interpretation**

3.—(1) In these Regulations—

“the 2002 Act” means the Education Act 2002;

“the 1996 Act” means the Education Act 1996;

“approved qualification” means a qualification approved under section 98 of the Learning and Skills Act 2000<sup>(6)</sup> for the purposes of section 96 of that Act;

“curriculum plan” has the meaning given by regulation 4;

“key skills” has the meaning given by regulation 5;

“Key Stage 4” is to be construed in accordance with section 82(1) of the 2002 Act;

“maintained school” means a community, foundation or voluntary school or a community or foundation special school;

“school”, in relation to any pupil, means the school at which he is registered under section 434 of the 1996 Act; and

“extended work-related learning programme” has the meaning given by regulation 6.

(2) In these Regulations references to the head teacher include references to a person nominated by him.

### **Curriculum Plan**

4. In these Regulations a curriculum plan is a plan which sets out—

(a) the contents of the curriculum to be provided for a pupil; and

(b) the National Curriculum subjects to be disapplied in Key Stage 4;

with the aim of ensuring that the pupil receives an appropriate, broad and balanced curriculum.

### **Key Skills**

5. In these Regulations “key skills” means those skills known as—

(a) application of number;

(b) communication;

(c) information technology;

(d) working with others;

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<sup>(4)</sup> S.I. 2000/1140. These Regulations apply only in relation to maintained schools in England.

<sup>(5)</sup> S.I. 2002/2048.

<sup>(6)</sup> 2000 c. 21.

- (e) improving own learning and performance; and
- (f) problem solving,

which are taken into account by the Secretary of State in approving qualifications under section 98 of the Learning and Skills Act 2000 for the purposes of section 96 of that Act.

### **Extended Work-related Learning Programme**

6. In these Regulations an extended work-related learning programme is a programme which—
- (a) offers pupils experience of the working environment and working practices;
  - (b) provides pupils with the opportunity to develop literacy, numeracy and key skills through such experience;
  - (c) is designed to complement the education being provided to pupils through the remainder of the curriculum which they are studying at school;
  - (d) contributes, so far as is practicable, towards approved qualifications, whether vocational or not; and
  - (e) cannot be provided alongside the full National Curriculum at Key Stage 4.

### **Disapplication of the National Curriculum**

7.—(1) The provisions of the National Curriculum specified in this regulation shall not apply to a pupil at Key Stage 4 in the following circumstances—

- (a) the pupil is participating in an extended work-related learning programme; or
- (b) the pupil, in the opinion of the head teacher, would benefit educationally from their disapplication.

(2) The head teacher may determine in the case of a pupil to whom paragraph 1(a) applies that the provisions of the National Curriculum regarding one or two of the following subjects should not apply to him:

- (a) modern foreign language;
- (b) design and technology;
- (c) science.

(3) The head teacher may determine in the case of a pupil to whom paragraph 1(b) applies that the requirements of the National Curriculum regarding one or both of the following subjects should not apply to him:

- (a) modern foreign language;
- (b) design and technology.

(4) In no circumstances shall these Regulations permit a pupil to have more than two of the subjects referred to in paragraph (2) disapplied in relation to him.

### **Criteria to be satisfied before disapplication of the National Curriculum**

- 8.—(1) Before a decision is made to disapply the National Curriculum, a head teacher shall—
- (a) satisfy himself that the educational benefits to the pupil of disapplication of the National Curriculum outweigh any disadvantages he may suffer as a result of not studying the full National Curriculum;
  - (b) agree the proposed disapplication with the pupil and his parents; and

- (c) in relation to disapplication under regulation 7(1)(a), ensure that a guidance interview with the pupil has taken place.
- (2) When a decision to disapply the National Curriculum has been made in respect of a pupil the head teacher shall:
  - (a) agree a curriculum plan with the pupil and his parents;
  - (b) ensure that the pupil's entitlement to study a broad curriculum is maintained and his opportunities for continuing his studies beyond Key Stage 4 are safeguarded.
- (3) The reference to a guidance interview in paragraph (1) means an interview between the pupil and an impartial and informed adult which enables the pupil to consider and discuss his ambitions for his future education and training and which enables guidance to be given to him regarding the curriculum plan and the implications for him of the disapplication of the National Curriculum.

**Additional criteria to be satisfied for the purposes of regulation 7(1)(a)**

9. Where the National Curriculum is being disappplied in the circumstances set out in regulation 7(1)(a), the head teacher shall—
- (a) ensure that, as far as practicable, the pupil's timetable is arranged and preparatory work is carried out so as to ensure that the requirements of his curriculum plan are met; and
  - (b) make arrangements to monitor attendance, progress and achievements of the pupil.

**Modification of statutory programmes of study for National Curriculum subjects**

10. A head teacher may modify programmes of study in modern foreign language, design and technology or science to provide pupils with courses leading to qualifications specified for this purpose under section 98 of the Learning and Skills Act 2000 for the purposes of section 96 of that Act(7).

5th February 2003

*David Miliband*  
Minister of State  
Department for Education and Skills

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(7) The list of specified syllabuses and qualifications is to be found at [www.dfes.gsi.gov.uk/section 96](http://www.dfes.gsi.gov.uk/section 96).

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## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations made under the Education Act 2002 revoke and re-enact with modifications the Education (National Curriculum) (Exceptions at Key Stage 4) Regulations 2000 and the Education (National Curriculum) (Exceptions at Key Stage 4) (Amendment) Regulations 2002. These Regulations create an expanded set of exceptions to the National Curriculum at Key Stage 4.

The circumstances in which the National Curriculum may be disapplied in respect of Design and Technology and a Modern Foreign Language at Key Stage 4 are extended.

Regulation 7(1)(b) allows a school to disapply the requirement for a pupil to study design and technology and/or a modern foreign language wherever the pupil would benefit educationally from this in the opinion of the head teacher. Regulations 8 and 9 set out conditions to be satisfied where subjects are disapplied.