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STATUTORY INSTRUMENTS

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**1996 No. 2116**

**EDUCATION, ENGLAND AND WALES**

**The Education (National Curriculum) (Key Stage 3  
Assessment Arrangements) (England) Order 1996**

*Made* - - - - *8th August 1996*

*Coming into force* - - *12th August 1996*

In exercise of the powers conferred by sections 4(2)(c), (5), (6) and (8) and 232(5) and (6) of the Education Reform Act 1988(1), the Secretary of State for Education and Employment hereby makes the following Order:

**Citation and commencement and application**

1. This Order may be cited as The Education (National Curriculum) (Key Stage 3 Assessment Arrangements) (England) Order 1996 and shall come into force on 12th August 1996.

(2) The provisions of this Order apply for the purpose of ascertaining the achievements in the core and other foundation subjects of pupils who are in the final year of the third key stage.

(3) This Order applies only to maintained schools and grant-maintained special schools (other than those established in hospitals) in England(2).

**Revocation**

2. The Education (National Curriculum) (Assessment Arrangements for the Core Subjects) (Key Stage 3) (England) Order 1995(3) shall be revoked.

**Interpretation**

3.—(1) In this Order—

“the associated documents” means the documents published by Her Majesty’s Stationery Office, setting out any levels of attainment, attainment targets, end of key stage descriptions and programmes of study in relation to the core and other foundation subjects, which

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(1) 1988 c. 40; section 4 was amended by section 240 of the Education Act 1993 (c. 35).  
(2) The provisions of the National Curriculum apply to grant-maintained special schools which are not established in hospitals by virtue of regulation 42(1) of, and Parts I and II of the Schedule to, the Education (Grant-Maintained Special Schools) Regulations 1994, S.I. 1994/653 (to which there are amendments not relevant to this Order) and, so far as concerns programmes of study and attainment targets for the third key stage, the orders cited in footnote (d) below.  
(3) S.I. 1995/2073.

documents have effect by virtue of the respective section 4(2)(a) and (b) orders for those subjects for the time being in force(4);

“AT” means attainment target;

“the Authority” means the School Curriculum and Assessment Authority established under section 244 of the Education Act 1993;

“the core subjects” means English, mathematics and science;

“external marking agency” means a body nominated by the Authority and approved by the Secretary of State to mark NC tests;

“maintained school” has the meaning assigned to that expression by section 25(1) of the Education Reform Act 1988;

“NC tests” means National Curriculum tests administered to pupils for the purpose of assessing the level of attainment which they have achieved in any core subject and “NC assessment timetable” means a timetable for the administration of NC tests, being respectively tests and a timetable laid down in provisions made by the Secretary of State under article 12 which have been published by Her Majesty’s Stationery Office;

“the other foundation subjects” means art, geography, history, a modern foreign language specified in an order of the Secretary of State(5), music, physical education and technology;

“section 4(2)(a) and (b) orders” means orders made under section 4(2)(a) and (b) of the Education Reform Act 1988 specifying attainment targets and programmes of study;

“specified” means specified in relation to the third key stage by a section 4(2)(a) and (b) order;

“summer term” means the third term in a school year (as defined in section 3(6) of the Education Reform Act 1988(6)); and

references to the third key stage are, subject to the operation of section 3(4) to (6) of the Education Reform Act 1988, references to the period set out in paragraph (c) of section 3(3) of that Act(7); and

references to levels of attainment, attainment targets, end of key stage descriptions and programmes of study are references to the levels, targets, descriptions and programmes set out in the associated documents.

(2) Where any average number required to be determined by this Order is not a whole number, it shall be rounded to the nearest whole number, the fraction one half being rounded upwards to the next whole number.

### **Teacher assessment—general**

4.—(1) It shall be the duty of the head teacher to make arrangements for each pupil to be assessed by a teacher in each core and other foundation subject during the summer term in accordance with the provisions of this article and articles 5 to 9 and for a record of the results to be made by that teacher.

(2) The pupil shall be assessed and a record of the results made by the teacher not later than two weeks before the end of the summer term or 4th July falling in that term, if earlier.

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(4) The relevant orders for the third key stage are S.I. 1995/51 (English), 1995/52 (mathematics), 1995/53 (science), 1995/54 (history), 1995/55 (geography), 1995/56 (technology), 1995/57 (modern foreign languages), 1995/58 (art), 1995/59 (music) and 1995/60 (physical education).

(5) See the Education (National Curriculum) (Modern Foreign Languages) Order 1991, S.I. 1991/2567, amended by S.I. 1994/1818.

(6) Section 3(6) was amended by section 240(3) of the Education Act 1993.

(7) Section 3(3) was amended by paragraph 113 of Schedule 19 to the Education Act 1993 and section 3(5A) was inserted by section 240(2) of that Act.

(3) In making an assessment of a pupil pursuant to this article and articles 5 to 9 a teacher may take into account the results of any previous assessment of the pupil (whether or not made by that teacher).

#### **Teacher assessment—English, mathematics, modern foreign language and science**

5.—(1) In the cases of English, mathematics, a modern foreign language and science, the purpose of the assessment shall be to determine the level of attainment achieved by the pupil in each AT specified for the subject which applies to him and, subject to article 6(3), in the subject as calculated in accordance with paragraph (3).

(2) The record of the results shall consist of a statement of each level of attainment achieved by the pupil (whether or not that level is specified in relation to the third key stage by the relevant section 4(2)(a) and (b) order) in relation to every AT mentioned in paragraph (1) and, subject to article 6(3), of his level in the subject so calculated.

(3) Subject to article 6, a pupil's level of attainment in each subject shall be the average of his levels in each AT, save that in the case of mathematics his level in AT2 (number and algebra) shall be weighted by a factor of 2.

6.—(1) Article 5(3) shall have effect in relation to pupils as respects whom provisions of the National Curriculum do not apply (including pupils with statements of special educational needs) with the modifications specified in this article.

(2) Where one AT in a subject does not apply to such a pupil article 5(3) shall have effect as if the number of ATs applying to the pupil were the total number of ATs in the subject.

(3) Where more than one AT in a subject does not apply to such a pupil article 5(3) shall not apply to him in relation to that subject.

#### **Teacher assessment—technology**

7.—(1) In the case of technology, the purpose of the assessment shall be to determine the level of attainment achieved by the pupil in each AT specified for the subject which applies to him and, subject to paragraph (3), the average of his levels of attainment in the ATs specified in relation to design and technology as calculated in accordance with paragraph (2).

(2) The record of the results shall consist of a statement of—

- (a) each level of attainment achieved by the pupil (whether or not that level is specified in relation to the third key stage by the relevant section 4(2)(a) and (b) order) in relation to every AT mentioned in paragraph (1); and
- (b) subject to paragraph (3), the average of his levels in the ATs specified in relation to design and technology weighting his level in AT1 (designing) by a factor of 2 and his level in AT2 (making) by a factor of 3.

(3) Where an AT specified in relation to design and technology does not apply to a pupil, sub-paragraph (b) of paragraph (2) shall not apply in relation to him.

#### **Teacher assessment—geography and history**

8. In the cases of geography and history, the purpose of the assessment shall be to determine the level of attainment achieved by the pupil in the subject, and the record of the results shall consist of a statement of that level.

### **Teacher assessment—art, music and physical education**

9. In the cases of art, music and physical education, the purpose of the assessment shall be to determine what the pupil has achieved in relation to the end of key stage descriptions specified for the AT (in the case of physical education) or each AT which applies to him (in the cases of art and music), and the record of the results shall consist of a statement of the pupil's achievements.

### **NC test assessment**

10.—(1) It shall be the duty of the head teacher to make arrangements for each pupil to whom this article applies in respect of a core subject to be assessed in that subject in accordance with the provisions of paragraph (3).

(2) This article applies to a pupil in respect of a core subject if, in the opinion of his head teacher, his level of attainment in that subject, if he were to be assessed by the administration to him of NC tests in accordance with the provisions of paragraph (3), would be level 3 or higher (in the case of mathematics and science) or level 4 or higher (in the case of English).

(3) Where this article applies to a pupil in respect of a core subject NC tests shall be administered to the pupil in accordance with the provisions of the document in which they are published at the times specified in the relevant NC assessment timetable and as soon as reasonably practicable thereafter the pupil's responses to the NC tests shall be provided to the external marking agency determined by the Authority and notified by them to the head teacher to be marked.

(4) Following the marking of NC tests the external marking agency shall provide to the head teacher a record of the results consisting of a statement of each level of attainment achieved by the pupil.

### **Evaluation of Assessment Arrangements**

11. The Authority shall make such arrangements as seem to them appropriate for determining the extent to which the provisions of articles 4 to 10 and their implementation achieve the purpose mentioned in article 1(2).

### **Supplementary powers of the Secretary of State**

12. The Secretary of State may make such provisions giving full effect to or otherwise supplementing the provisions made by this Order (other than provisions conferring or imposing functions as mentioned in section 4(5)(a) of the Education Reform Act 1988) as appear to her to be expedient, including in particular provisions as to NC tests for the purpose mentioned in the definition of such tests in article 3(1) and as to the time when and the manner in which the tests are to be administered.

8th August 1996

*Cheryl Gillan*  
Parliamentary Under Secretary of State,  
Department for Education and Employment

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## EXPLANATORY NOTE

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

This Order revokes and replaces the Education (National Curriculum) (Assessment Arrangements for the Core Subjects) (Key Stage 3) (England) Order 1995. It specifies in relation to the 1996–97 school year and succeeding school years the assessment arrangements for pupils in the final year of the third key stage, as they apply to schools maintained by local education authorities, grant-maintained and grant-maintained special schools (not established in a hospital) in England.

The Order makes the following changes from the 1995 Order:—

- (a) it amends the time by which teacher assessment is to be completed so as to require this by 4th July or two weeks before the end of the summer term if that is earlier (article 4(2));
- (b) it introduces requirements for teacher assessment in the non-core subjects (teacher assessment is required by the Order in all ten foundation subjects) (articles 4 to 9);
- (c) it removes provision for the administration to pupils of National Curriculum tasks; and
- (d) it specifies that National Curriculum tests in a core subject are to be administered to pupils who are expected by their head teacher to achieve at least level 3 (in the case of mathematics and science) or level 4 (in the case of English).