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STATUTORY INSTRUMENTS

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**1999 No. 2189**

**EDUCATION, ENGLAND**

**The Education (National Curriculum) (Key Stage 3  
Assessment Arrangements) (England) Order 1999**

*Made - - - - 9th August 1999*

*Coming into force - - 13th August 1999*

In exercise of the powers conferred by sections 356(2)(c), (5), (6) and (8) and 568(5) and (6) of the Education Act 1996<sup>(1)</sup>, the Secretary of State for Education and Employment hereby makes the following Order:

**Citation, commencement and application**

1.—(1) This Order may be cited as The Education (National Curriculum) (Key Stage 3 Assessment Arrangements) (England) Order 1999 and shall come into force on 13th August 1999.

(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 (other than those established in hospitals) in England.

**Revocation**

2. The Education (National Curriculum) (Key Stage 3 Assessment Arrangements) (England) Order 1996 shall be revoked<sup>(2)</sup>.

**Interpretation**

3.—(1) In this Order—

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

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(1) 1996 c. 56. By virtue of S.I. 1999/672, the powers conferred by these sections are exercisable by the Secretary of State only in relation to England.  
(2) S.I. 1996/2116.

have effect by virtue of the respective section 356(2)(a) and (b) orders for those subjects for the time being in force<sup>(3)</sup>;

“AT” means attainment target;

“the Authority” means the Qualifications and Curriculum Authority established under section 21 of the Education Act 1997<sup>(4)</sup>;

“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 350(1) of the Education Act 1996;

“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 14 which have been published by the Authority<sup>(5)</sup>;

“the other foundation subjects” means art, geography, history, a modern foreign language specified in an order of the Secretary of State<sup>(6)</sup>, music, physical education and technology;

“record of the results”, for the purposes of articles 10 and 12, means a record of the results of a pupil in respect of the NC tests administered to him under article 10, consisting of a statement of each level of attainment achieved by the pupil;

“section 356(2)(a) and (b) orders” means orders made under section 356(2)(a) and (b) of the Education Act 1996 specifying attainment targets and programmes of study;

“specified” means specified in relation to the third key stage by a section 356(2)(a) and (b) order;

“summer term” means the third term in a school year (as defined in section 579(1) of the Education Act 1996; and

references to the third key stage are, subject to the operation of section 355(2) to (5) of the Education Act 1996, references to the period set out in paragraph (c) of section 355(1) of that Act; 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.

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(3) The relevant orders for the third key stage are S.I. 1995/51 (english), 1995/52 (mathematics), 1995/53 (science), 1998/1988 (history), 1998/1989 (geography), 1995/56 (technology), 1995/57 (modern foreign languages), 1998/1990 (art), 1998/1991 (music) and 1998/1987 (physical education).

(4) 1997 c. 44.

(5) As at the date this Order is made, the document is entitled “Key Stage 3 Assessment and Reporting Arrangements” (reference number QCA/98/264); the document can be obtained through QCA Publications, PO Box 99, Sudbury, Suffolk CO10 6SN.

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

(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.

(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 356(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 356(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) As soon as reasonably practicable after the pupil's responses to the NC tests in all the core subjects have been provided by the head teacher to the external marking agency pursuant to paragraph (3), the head teacher shall provide that agency with a statement, signed by himself, confirming that those NC tests were administered in accordance with the provisions of the document in which they are published at the times specified in the relevant NC assessment timetable.

(5) 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 by the pupil.

### **Monitoring of assessment arrangements**

11.—(1) This article makes provision for the monitoring of the NC test assessment under article 10, by the local education authority (referred to in this article as "the monitoring authority").

(2) The monitoring authority shall exercise their functions conferred by this article in any school year in relation to 10% of all relevant schools.

(3) For the purposes of paragraphs (2) and (4), the "relevant schools" are all schools maintained by the monitoring authority at which in any school year NC tests are administered to pupils under article 10.

(4) The monitoring authority shall, each school year, visit the relevant schools during any of the following periods—

- (a) the week before any NC tests are administered to pupils under article 10;
- (b) the period during which NC tests are administered to pupils under that article; or
- (c) three school days after the day on which the last NC test is administered to pupils under that article;

and, such a visit may be during any of these periods in respect of any of those schools.

(5) The purpose of any such visit as is referred to in paragraph (4) shall be to enable the monitoring authority to monitor whether the assessment arrangements for the purposes of administering the NC tests under article 10 are in accordance with the provisions of the document in which those NC tests are published and the relevant NC assessment timetable, including, in the case of a visit under paragraph (4)(b), whether pupils' written responses to the NC tests represent their own work.

(6) Following any such visit as is referred to in paragraph (4), the monitoring authority shall discuss the outcome of the visit with the head teacher.

(7) Where, as a result of a visit, it appears to the monitoring authority that any of the assessment arrangements in connection with administering the NC tests under article 10 are not in accordance with the document in which those NC tests are published or the relevant NC assessment timetable or that any pupil's written response to the NC tests does not represent his own work, they shall—

- (a) bring the matter to the attention of the head teacher; and
- (b) report the matter to the Authority.

(8) It shall be the duty of the head teacher and the governing body—

- (a) to permit the monitoring authority to enter the premises of the school at all reasonable times in order to observe the implementation of the arrangements for NC test assessment under article 10;
- (b) to permit the monitoring authority to inspect and take copies of documents and other articles relating to that NC test assessment; and
- (c) to provide to the monitoring authority such information relating to such assessment as they may reasonably request.

(9) For the purpose of exercising their functions under this article, the local education authority shall appoint such competent persons as they think fit.

#### **Investigation by the Authority and correction of record of results**

**12.**—(1) The Authority shall investigate any matter referred to them under article 11(7) or otherwise brought to their attention which, in their opinion, relates to the accuracy or correctness otherwise of any results of any pupil in respect of the NC tests administered under article 10.

(2) Where, following an investigation under paragraph (1) and before the external marking agency have provided the record of the results to the head teacher under article 10(5), the Authority determines that the accuracy or correctness otherwise of a pupil's results in respect of the NC tests administered under article 10 is in doubt, the record of the results to be provided by that agency to the head teacher shall be the record of the results determined by the Authority.

(3) Where, following an investigation under paragraph (1) and the external marking agency have provided the record of the results to the head teacher under article 10(5), the Authority determines that that record of the results is inaccurate or otherwise incorrect, the Authority shall provide to the head teacher a record of the results determined by the Authority and that record of the results shall be the record of the results for the pupil.

#### **Evaluation of Assessment Arrangements**

**13.** 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**

**14.** 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 356(5)(a) of the Education Act 1996 as appear to him 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.

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**Status:** This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

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9th August 1999

*Estelle Morris*  
Minister 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) (Key Stage 3 Assessment Arrangements) (England) Order 1996 (“the 1996 Order”). It specifies the assessment arrangements for pupils in the final year of the third key stage, as they apply to schools maintained by local education authorities (other than any established in a hospital) in England.

The main change from the 1996 Order is to provide for monitoring of the NC test assessment arrangements under article 10 by local education authorities and for determination of a pupil’s record of results by the Qualifications and Curriculum Authority in cases where the results of the NC test assessment are inaccurate or otherwise incorrect (*articles 11 and 12*). The head teacher is also required to provide a statement, signed by himself, to the external marking agency confirming that the NC tests were administered in accordance with the document in which they are published at the time specified in the relevant NC assessment timetable (*article 10(4)*).