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STATUTORY INSTRUMENTS

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**2004 No. 2783**

**EDUCATION, ENGLAND**

**The Education (National Curriculum) (Key Stage 1  
Assessment Arrangements) (England) Order 2004**

*Made* - - - - - *27th October 2004*

*Coming into force* - - - - - *8th November 2004*

In exercise of the powers conferred upon the Secretary of State by sections 87(3)(c), (7), (9), (10) and (11), and 210(7) of the Education Act 2002 <sup>M1</sup>, the Secretary of State for Education and Skills hereby makes the following Order:

**Marginal Citations**

**M1** 2002 c. 32.

**Citation, commencement and application**

1.—(1) This Order may be cited as the Education (National Curriculum) (Key Stage 1 Assessment Arrangements) (England) Order 2004 and shall come into force on 8th November 2004.

[<sup>F1</sup>(2) In this Order—

(a) articles 4, 5, 6 and 7 apply for the purpose of ascertaining the achievements in the core subjects of pupils who have completed the programme of study for the first key stage; <sup>F2</sup>...

[<sup>F3</sup>(b) article 4A applies for the purpose of determining the suitability of test materials for use in NC tests; and

(c) articles 5A and 6A apply for the purpose of ascertaining the extent to which pupils in the first key stage understand the correspondence between graphemes and phonemes in English.]]

(3) This Order applies to maintained schools (other than those established in hospitals) in England [<sup>F4</sup>and articles 5A and 6A apply to maintained nursery schools in England which have registered pupils who will attain the age of six before the end of the school year].

**Textual Amendments**

**F1** Art. 1(2) substituted (21.12.2011) by [The Education \(National Curriculum\) \(Key Stage 1 Assessment Arrangements\) \(England\) \(Amendment\) Order 2011 \(S.I. 2011/3057\)](#), arts. 1, 3

**Status:** Point in time view as at 01/09/2015.

**Changes to legislation:** There are currently no known outstanding effects for the The Education (National Curriculum) (Key Stage 1 Assessment Arrangements) (England) Order 2004. (See end of Document for details)

- F2** Word in art. 1(2)(a) omitted (1.9.2015) by virtue of [The Education \(National Curriculum\) \(Miscellaneous Amendments\) \(England\) Order 2015 \(S.I. 2015/900\)](#), arts. 1, **3(a)**
- F3** Art. 1(2)(b)(c) substituted for art. 1(2)(b) (1.9.2015) by [The Education \(National Curriculum\) \(Miscellaneous Amendments\) \(England\) Order 2015 \(S.I. 2015/900\)](#), arts. 1, **3(b)**
- F4** Words in art. 1(3) added (20.6.2013) by [The Education \(National Curriculum\) \(Key Stages 1 and 2 Assessment Arrangements\) \(England\) \(Amendment\) Order 2013 \(S.I. 2013/1513\)](#), arts. 1, **3(2)**

## Revocation

2. The Education (National Curriculum) (Key Stage 1 Assessment Arrangements) (England) Order 2003 <sup>M2</sup> is hereby revoked.

### Marginal Citations

**M2** [S.I.2003/1037](#).

## Interpretation

3.—(1) In this Order—

<sup>F5</sup> ...

<sup>F6</sup> ...

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

<sup>F7</sup> ...

“the Document” means the document entitled “Key Stage 1 Assessment and Reporting Arrangements” <sup>F8</sup> ... ;

“section 87(3)(a) and (b) orders” means orders made or which have effect as if they were made under section 87(3)(a) or (b) of the Education Act 2002 specifying attainment targets and programmes of study;

“moderation” means the review of teacher assessment processes and results to ensure consistency and “moderating” shall be construed accordingly;

[<sup>F9</sup>“NC tests” means National Curriculum assessments administered to pupils pursuant to article 5 or 5A;]

[<sup>F10</sup>“the QCDA” means the Qualifications and Curriculum Development Agency;]

“standard task” and “standard task assessment” have the meanings given in article 5.

“summer term” means the final term of the school year;

[<sup>F11</sup>“trial” means an assessment for the purpose of determining the suitability of test materials for use in NC tests;

“trialling agency” means a body approved by the Secretary of State to administer trials in respect of test materials for use in NC tests.]

(2) In this Order references to the first key stage are, subject to the operation of section 82(2) to (5) of the Education Act 2002, references to the period set out in paragraph (a) of section 82(1) of that Act.

[<sup>F12</sup>(3) In this Order references to attainment targets and programmes of study are references to the targets and programmes set out in any document (other than the P Scale Document) published by the Department for Education under a section 87(3)(a) and (b) order for the foundation subjects.]

### Textual Amendments

- F5** Words in art. 3 omitted (1.9.2015) by virtue of [The Education \(National Curriculum\) \(Miscellaneous Amendments\) \(England\) Order 2015 \(S.I. 2015/900\)](#), arts. 1, **4(a)**
- F6** Words in art. 3(1) omitted (1.4.2010) by virtue of [The Apprenticeships, Skills, Children and Learning Act 2009, Parts 7 and 8 \(Consequential Amendments\) Order 2010 \(S.I. 2010/677\)](#), arts. 1, **10(2)(b)**
- F7** Words in art. 3 omitted (1.9.2015) by virtue of [The Education \(National Curriculum\) \(Miscellaneous Amendments\) \(England\) Order 2015 \(S.I. 2015/900\)](#), arts. 1, **4(b)**
- F8** Words in art. 3(1) omitted (1.10.2011) by virtue of [The Education \(National Curriculum\) \(Key Stages 1, 2 and 3 Assessment Arrangements\) \(England\) \(Amendment\) Order 2011 \(S.I. 2011/2392\)](#), arts. 1, **4(2)**
- F9** Words in art. 3 inserted (1.9.2015) by [The Education \(National Curriculum\) \(Miscellaneous Amendments\) \(England\) Order 2015 \(S.I. 2015/900\)](#), arts. 1, **4(c)**
- F10** Words in art. 3(1) inserted (1.4.2010) by [The Apprenticeships, Skills, Children and Learning Act 2009, Parts 7 and 8 \(Consequential Amendments\) Order 2010 \(S.I. 2010/677\)](#), arts. 1, **10(2)(b)**
- F11** Words in art. 3 inserted (1.9.2015) by [The Education \(National Curriculum\) \(Miscellaneous Amendments\) \(England\) Order 2015 \(S.I. 2015/900\)](#), arts. 1, **4(d)**
- F12** Art. 3(3) substituted (1.9.2015) by [The Education \(National Curriculum\) \(Miscellaneous Amendments\) \(England\) Order 2015 \(S.I. 2015/900\)](#), arts. 1, **4(e)**

### Assessment

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 subject during the summer term in accordance with the provisions of this article and for a record of the results to be made by that teacher.

[<sup>F13</sup>(2) The purpose of the assessment is to determine the standard of attainment achieved by the pupil in each core subject which applies to the pupil as calculated in accordance with any delegated supplementary provisions.]

(3) 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.

[<sup>F14</sup>(4) A record of the results must consist of the standard of attainment which the teacher assesses has been achieved by the pupil (whether or not that standard is specified in relation to the first key stage by the relevant section 87(3)(a) and (b) order) in relation to each core subject.]

(5) In making an assessment of a pupil pursuant to this article, a teacher shall take into account the pupil's performance in the subject throughout the school year, the results of any standard task assessment and any previous assessment of the pupil, whether by means of standard tasks or otherwise, whether or not the previous assessments were made by that teacher.

(6) If, in any subject, there is a divergence between the teacher assessment and the results of the standard task assessment, the teacher assessment will stand provided that the teacher can provide objective evidence to justify the teacher assessment.

### Textual Amendments

- F13** Art. 4(2) substituted (1.9.2015) by [The Education \(National Curriculum\) \(Miscellaneous Amendments\) \(England\) Order 2015 \(S.I. 2015/900\)](#), arts. 1, **5(a)**
- F14** Art. 4(4) substituted (1.9.2015) by [The Education \(National Curriculum\) \(Miscellaneous Amendments\) \(England\) Order 2015 \(S.I. 2015/900\)](#), arts. 1, **5(b)**

**[<sup>F15</sup>Determining the suitability of test materials for key stage 1 National Curriculum tests**

**4A.**—(1) If this article applies the head teacher must make arrangements for each pupil to be assessed by a trialling agency in respect of test materials for use in NC tests.

(2) This article applies to a pupil in the final year of the first key stage in respect of English and mathematics—

- (a) if the pupil’s school has been designated for the purposes of this article, and
- (b) if the pupil has been selected by the Secretary of State or, in circumstances where the Secretary of State has requested the school’s head teacher to select the pupil, by the head teacher to be trialled in respect of test materials for use in NC tests.

(3) This article applies to a pupil in the first year of the first key stage in respect of understanding the correspondence between graphemes and phonemes—

- (a) if the pupil’s school has been designated for the purpose of this article, and
- (b) if the pupil has been selected by the Secretary of State or, in circumstances where the Secretary of State has requested the school’s head teacher to select the pupil, by the head teacher to be trialled in respect of test materials for use in NC tests.

(4) Paragraphs (2) and (3) apply only in the 2015-16 school year and every school year after that, as determined by the Secretary of State at the beginning of the first term of that school year.

(5) The Secretary of State must notify each designated school in writing within two weeks of making a determination to designate for the purposes of this article.

(6) If a pupil is selected by the Secretary of State under paragraphs 2(b) or 3(b), the head teacher must consider and decide whether that pupil is to be included in any trial carried out in accordance with this article.

(7) This article does not apply to a pupil if the head teacher decides the pupil should not be included in any trial.

(8) Where this article applies to a pupil in respect of any test materials for use in NC tests, a trialling agency must administer the trial to the pupil, in respect of the test materials, in accordance with any arrangements for such test materials made under article 9(1)(b).]

**Textual Amendments**

**F15** Art. 4A inserted (1.9.2015) by [The Education \(National Curriculum\) \(Miscellaneous Amendments\) \(England\) Order 2015 \(S.I. 2015/900\)](#), arts. 1, 6

**Standard task assessment: English and mathematics**

**5.**—(1) It shall be the duty of the head teacher to make arrangements for each pupil to whom this article applies to be assessed in English and mathematics by the administration of tasks and tests (referred to in this Order as “standard tasks”) in accordance with the provisions of this article, and such an assessment shall be known as a “standard task assessment”.

[<sup>F16</sup>(2) This article applies to a pupil in respect of English and mathematics if the head teacher is of the opinion that the pupil’s ability in that subject is at the standard of the NC test.]

(3) Standard tasks for which provision is made by the Secretary of State pursuant to article 9 shall be administered and assessed in accordance with the provisions of the Document.

### Textual Amendments

- F16** Art. 5(2) substituted (1.9.2015) by [The Education \(National Curriculum\) \(Miscellaneous Amendments\) \(England\) Order 2015 \(S.I. 2015/900\)](#), arts. 1, 7

### [<sup>F17</sup>Assessment: understanding the correspondence between graphemes and phonemes

**5A.**—(1) The head teacher must—

- (a) make arrangements for each pupil to whom this article applies to be assessed by a teacher for the purpose referred to in article 1(2)(b) in accordance with this article and any delegated supplementary provisions relating to an assessment under this article;
- (b) make arrangements for the results of the assessment of each such pupil to be recorded; and
- (c) make a declaration to the Secretary of State that the assessment of pupils has been carried out in accordance with this article and those delegated supplementary provisions.

[<sup>F18</sup>(2) Subject to paragraph (3), this article applies to—

- (a) every pupil in the school year in which that pupil attains the age of six; and
- (b) any pupil, in the school year in which that pupil attains the age of seven—
  - (i) who was not assessed in the school year in which the pupil attained the age of six; or
  - (ii) whose results in the assessment in the school year in which the pupil attained the age of six were lower than the level notified to schools by the Secretary of State in relation to that school year.]

(3) The head teacher must consider whether a pupil falling within paragraph (2)(a) or (b) should not be assessed in accordance with this article and where the head teacher so decides—

- (a) this article does not apply to that pupil; and
- (b) the head teacher must inform the pupil’s parents prior to the time when the assessment is to be administered that the pupil will not be assessed in that school year.]

### Textual Amendments

- F17** Art. 5A inserted (21.12.2011) by [The Education \(National Curriculum\) \(Key Stage 1 Assessment Arrangements\) \(England\) \(Amendment\) Order 2011 \(S.I. 2011/3057\)](#), arts. 1, 4

- F18** Art. 5A(2) substituted (20.6.2013) by [The Education \(National Curriculum\) \(Key Stages 1 and 2 Assessment Arrangements\) \(England\) \(Amendment\) Order 2013 \(S.I. 2013/1513\)](#), arts. 1, 3(5)

### Moderation of Assessments

**6.**—(1) The local education authority (referred to in this article as “the moderating authority”) shall make provision for moderating teacher assessments in respect of the schools which they maintain.

(2) The moderating authority shall exercise the functions conferred by this article in relation to each of reading, writing and mathematics and—

- (a) subject to paragraph (3), in each school year in relation to at least 25% of all relevant schools;
- (b) in each school year, in relation to those schools in relation to which moderation took place in the preceding school year and in the opinion of the moderating authority, having regard to the results of that moderation, a further moderation should be made.

- (3) For the purposes of paragraph (2)(a)—
- (a) moderations carried out pursuant to paragraph (2)(b) shall not count towards the 25% minimum;
  - (b) the moderating authority shall so exercise its functions as to secure that in any period of four years moderations have been completed in relation to all relevant schools.
- (4) For the purposes of paragraphs (2) and (3), “relevant schools” are all the schools maintained by the moderating authority.
- (5) On a request by the moderating authority, the head teacher shall provide them with the results of teacher assessments of such number or proportion of pupils and in such subjects or attainment targets in subjects as they may require, together with the supporting material referred to in paragraph (6) to enable the moderating authority to moderate the assessments.
- (6) The supporting material consists of examples of work produced by the pupil in the course of the school year, the pupil’s standard task assessment results, the pupil’s written response to the standard tasks, any evidence required in accordance with article 4(6) and such further material as the moderating authority may reasonably require.
- (7) If after moderation the moderating authority considers that the results of the teacher assessments are accurate, they shall so notify the head teacher, and the attainment [F19standards] of all pupils at the school determined by teacher assessments (whether or not moderated) shall be the [F19standards] for the subject in question.
- (8) If after moderation the moderating authority consider that any of the results of the teacher assessments are inaccurate, they shall so notify the head teacher and, if the moderating authority so request, the head teacher shall as soon as practicable—
- (a) arrange for the results considered to be inaccurate, together with such other results as that authority may request, to be reconsidered by the teachers concerned and subsequently submitted to the moderating authority for moderation; and
  - (b) provide the moderating authority with the results of the teacher assessments of all other pupils in the subject in question which have not been moderated, together with the supporting material referred to in paragraph (6) for moderation.
- (9) Where any [F19standard] of attainment determined by the moderating authority differs from the [F19standard] determined by a teacher assessment, the [F19standard] determined by the moderating authority after moderation shall be the [F19standard] of attainment.
- (10) It shall be the duty of the head teacher and the governing body—
- (a) to permit the moderating authority to enter the premises of the school at all reasonable times in order to observe the implementation of the arrangements specified by [F20article 4];
  - (b) to permit the moderating authority to inspect and take copies of documents and other articles relating to teacher assessment; and
  - (c) to provide to the moderating authority such information relating to assessment as they may reasonably request.
- (11) For the purpose of exercising their functions under this article the moderating authority shall appoint such competent persons as they think fit.
- (12) A person is not competent for the purposes of paragraph (11) unless he has recent experience of the provision of the National Curriculum for England in primary schools.

### Textual Amendments

- F19** Words in art. 6 substituted (1.9.2015) by [The Education \(National Curriculum\) \(Miscellaneous Amendments\) \(England\) Order 2015 \(S.I. 2015/900\)](#), arts. 1, **8**
- F20** Words in art. 6(10)(a) substituted (21.12.2011) by [The Education \(National Curriculum\) \(Key Stage 1 Assessment Arrangements\) \(England\) \(Amendment\) Order 2011 \(S.I. 2011/3057\)](#), arts. 1, **5**

### [<sup>F21</sup>Monitoring of assessments under article 5A

**6A.**—(1) In any school year a local authority must carry out the functions imposed on it by this article in relation to at least 10% of the schools it maintains at which an assessment under article 5A is being administered in that school year (“monitored schools”).

(2) The local authority must visit monitored schools for the purpose of monitoring the extent to which the assessment is being carried out in accordance with the provisions of article 5A and any delegated supplementary provisions relating to an assessment under that article.

(3) A visit to a monitored school by the local authority for the purposes of this article may take place at one of the following times—

- (a) the week before an assessment under article 5A is to be administered;
- (b) the period during which an assessment under article 5A is to be administered;
- (c) the five school days following the last day on which an assessment under article 5A may be administered.

(4) In any school year the monitoring authority must make visits of each of the kinds of visit referred to in paragraph (3)(a) and (b).

(5) The local authority must discuss the outcome of its monitoring visits to a school with the head teacher of the school.

(6) If as a result of a visit carried out in accordance with this article it appears to the local authority that an assessment under article 5A has not been administered in accordance with the provisions of that article or under article 9 it must—

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

(7) The head teacher and the governing body must—

- (a) permit the local authority to enter the premises of the school at any reasonable time in order to observe the implementation of the arrangements for assessment under article 5A;
- (b) permit the local authority to inspect and take copies of documents relating to that assessment;
- (c) provide the local authority with such information relating to that assessment as the local authority reasonably requests.]

### Textual Amendments

- F21** Art. 6A inserted (21.12.2011) by [The Education \(National Curriculum\) \(Key Stage 1 Assessment Arrangements\) \(England\) \(Amendment\) Order 2011 \(S.I. 2011/3057\)](#), arts. 1, **6**

*Status: Point in time view as at 01/09/2015.*

*Changes to legislation: There are currently no known outstanding effects for the The Education (National Curriculum) (Key Stage 1 Assessment Arrangements) (England) Order 2004. (See end of Document for details)*

**[<sup>F22</sup>Investigation by the Secretary of State and correction of results**

**6B.**—(1) Where a matter is reported to the Secretary of State under article 6A(6)(b) or is otherwise brought to the Secretary of State’s attention which, in the Secretary of State’s opinion, relates to the accuracy or correctness of the results of any pupil in respect of the assessment administered under article 5A, the Secretary of State must—

- (a) determine the result achieved by the pupil in respect of the assessment; and
- (b) notify the head teacher of the result determined by the Secretary of State, which shall be the result achieved by the pupil.]

**Textual Amendments**

**F22** Art. 6B inserted (20.6.2013) by [The Education \(National Curriculum\) \(Key Stages 1 and 2 Assessment Arrangements\) \(England\) \(Amendment\) Order 2013 \(S.I. 2013/1513\)](#), arts. 1, **3(6)**

**Pupils not subject to provisions of the National Curriculum**

<sup>F23</sup>7. ....

**Textual Amendments**

**F23** Art. 7 omitted (1.9.2015) by virtue of [The Education \(National Curriculum\) \(Miscellaneous Amendments\) \(England\) Order 2015 \(S.I. 2015/900\)](#), arts. 1, **9**

**Evaluation of Assessment Arrangements**

<sup>F24</sup>8. ....

**Textual Amendments**

**F24** Art. 8 omitted (1.4.2012) by virtue of [The Education Act 2011 \(Consequential Amendments to Subordinate Legislation\) Order 2012 \(S.I. 2012/765\)](#), arts. 1, **7**

**[<sup>F25</sup>Delegated supplementary provisions**

**9.**—(1) The Secretary of State may make delegated supplementary provisions in relation to—

- (a) standard tasks and the time when, and manner in which, such tasks are to be administered;
- [<sup>F26</sup>(b) a trial under article 4A and the time when, and manner in which, such a trial is to be administered;
- (c) the circumstances in which the head teacher may decide a pupil should not be assessed under article 4A and 5A;
- (d) an assessment under article 5A and the time when, and manner in which, such an assessment is to be administered; and
- (e) provisions designating schools for the purposes of article 4A.]

(2) Before making, amending or revoking any delegated supplementary provisions the Secretary of State—

- (a) must consult the Office of Qualifications and Examinations Regulation; and



- (b) may consult such other persons as the Secretary of State considers appropriate.
- (3) Any delegated supplementary provisions must be published by the Secretary of State.]

**Textual Amendments**

- F25** Art. 9 substituted (21.12.2011) by [The Education \(National Curriculum\) \(Key Stage 1 Assessment Arrangements\) \(England\) \(Amendment\) Order 2011 \(S.I. 2011/3057\)](#), arts. 1, **7**
- F26** Art. 9(1)(b)-(e) substituted for art. 9(1)(b)(c) (1.9.2015) by [The Education \(National Curriculum\) \(Miscellaneous Amendments\) \(England\) Order 2015 \(S.I. 2015/900\)](#), arts. 1, **10**

*Stephen Twigg*  
Parliamentary Under Secretary of State,  
Department for Education and Skills

**Status:** Point in time view as at 01/09/2015.

**Changes to legislation:** There are currently no known outstanding effects for the *The Education (National Curriculum) (Key Stage 1 Assessment Arrangements) (England) Order 2004*. (See end of Document for details)

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## EXPLANATORY NOTE

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

This Order revokes and re-enacts with modifications the Education (National Curriculum) (Key Stage 1 Assessment Arrangements) (England) Order 2003. It specifies the assessment arrangements for pupils who have completed the first key stage which apply to schools maintained by local education authorities (other than any established in a hospital) in England.

The principal changes from the provisions of the 2003 Order are to allow teachers more flexibility in making their assessment of a pupil in key stage 1. Assessment at key stage 1 is now carried out by way of teacher assessment, taking into account the results achieved in the standard task assessments, but also based on the pupil's performance throughout the school year. Where the teacher assessment and the results of a pupil's standard task assessments differ, the teacher assessment will stand providing that the teacher can back up their assessment from other means. Local education authorities are to act as moderating authorities and are to be provided with such material as is necessary for them to moderate the teacher assessments made in each school including standard task assessment results and other examples of a pupil's work.

**Status:**

Point in time view as at 01/09/2015.

**Changes to legislation:**

There are currently no known outstanding effects for the The Education (National Curriculum) (Key Stage 1 Assessment Arrangements) (England) Order 2004.