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STATUTORY INSTRUMENTS

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**2012 No. 838**

**EDUCATION, ENGLAND**

**The Education (National Curriculum) (Key Stage 2 Assessment Arrangements) (England) (Amendment) Order 2012**

*Made* - - - -

*14th March 2012*

*Coming into force in accordance with regulation 1*

The Secretary of State for Education has consulted the Office of Qualifications and Examinations Regulation in accordance with section 87(6A)(a) of the Education Act 2002(a).

The Secretary of State for Education makes the following Order in exercise of the powers in sections 87(3)(c) and 210(7)(a) of the Education Act 2002.

**Citation and commencement**

1. This Order may be cited as the Education (National Curriculum) (Key Stage 2 Assessment Arrangements) (England) (Amendment) Order 2012 and comes into force on the day after the day on which it is made.

**Amendments to the Education (National Curriculum) (Key Stage 2 Assessment Arrangements) (England) Order 2003**

2. The Education (National Curriculum) (Key Stage 2 Assessment Arrangements) (England) Order 2003(b) is amended as follows.

3. After article 3(3) (interpretation) insert—

“(3A) References to a school being designated, or to the head teacher of a school having elected, to administer an externally-marked writing test are references to the school being so designated, or the head teacher having so elected, in accordance with the provisions made by the Secretary of State under article 11.”.

4. In article 4 (teacher assessment)—

(a) omit paragraph (3); and

(b) for paragraph (5) substitute—

“(5) In making an assessment of a pupil pursuant to this article, a teacher—

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(a) 2002 c. 32. Section 87(6A) was inserted by section 159(1) and (2) of the Apprenticeships, Skills, Children and Learning Act 2009 (c. 22).

(b) S.I. 2003/1038; relevant amending instruments are S.I. 2009/1585, 2010/290, 2010/677 and 2011/2392.

- (a) in relation to English writing, must take into account the results of any NC test in English writing administered to the pupil; and
- (b) may take into account the results of any previous assessment of the pupil, whether or not made by that teacher.”

5. After article 5(4) (NC test assessment) insert—

“(4ZA) The functions conferred on the head teacher in—

- (a) paragraph (3), to provide the pupil’s responses to the NC tests to the external marking agency which is to mark the NC tests; and
- (b) in paragraph (4), to provide that agency with a statement,

apply to a pupil in respect of the NC test in English writing only if the pupil’s school has been designated, or the head teacher of the pupil’s school has elected, to administer an externally-marked writing test.”.

6. After article 6(3) (monitoring of assessment arrangements) insert—

“(3A) The functions conferred on the monitoring authority by this article apply in respect of the NC test in English writing only if the relevant school has been designated to administer the externally-marked writing test.”.

7. After article 7(1) (investigation by the Secretary of State and correction of record of results) insert—

“(1A) Paragraph (1) applies in respect of the NC test in English writing only if the pupil’s school has been designated to administer an externally-marked writing test.”.

14th March 2012

*Nick Gibb*  
Minister of State  
Department for Education

## EXPLANATORY NOTE

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

This Order amends the Education (National Curriculum) (Key Stage 2 Assessment Arrangements) (England) Order 2003 (“the 2003 Order”) to include provisions about a National Curriculum test (“NC test”) in English writing, which will be administered to pupils in accordance with article 5 of the 2003 Order (which relates to NC tests as defined in article 3(1) of that Order).

Article 3 amends article 3 of the 2003 Order so as to add an interpretation provision. References to a school being designated or to the head teacher of a school having elected to administer an externally-marked writing test are references to the school being so designated, or the head teacher having so elected, to administer an externally-marked writing test in accordance with the provisions made by the Secretary of State under article 11 of the 2003 Order.

Article 4 amends article 4 of the 2003 Order so as to require the results of a NC test in English writing of a pupil to be taken into account in the teacher’s assessment of that pupil. It also removes the requirement for teacher assessments in all subjects to be recorded no later than two weeks before the end of the summer term or 4th July, if earlier.

Article 5 of this Order amends article 5 of the 2003 Order so that the provisions in article 5(3) (requirement to send pupil’s results to external marking agency for marking) and in article 5(4) (requirement for head teacher to provide a statement to that agency confirming that the NC tests were administered appropriately) apply to a pupil in respect of English writing only if the pupil’s school has been designated, or has elected, to administer an externally-marked writing test in accordance with provisions made by the Secretary of State under article 11 of 2003 Order. The schools to which these provisions do not apply will mark the tests internally.

Article 6 amends article 6 of the 2003 Order so that the functions conferred on monitoring authorities by article 6 apply in respect of the NC test in English writing only if the school being monitored has been designated to administer the externally-marked writing test.

Article 7 amends article 7 of the 2003 Order so that the duty on the Secretary of State to investigate matters relating to the accuracy or correctness of pupil’s results applies in respect of the NC test in English writing only if the pupil’s school has been designated to administer the externally-marked writing test.

An impact assessment has not been produced for this instrument as it has no impact on businesses or civil society organisations. The instrument has a minimal impact on the public sector.

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