
STATUTORY INSTRUMENTS

2020 No. 844

The Education (National Curriculum Assessment Arrangements, Attainment Targets and Programmes of Study) and (Pupil Information and School Performance Information) (Amendment) (England) Regulations 2020

PART 1

Preliminary

Citation and commencement

1.—(1) These Regulations may be cited as the Education (National Curriculum Assessment Arrangements, Attainment Targets and Programmes of Study) and (Pupil Information and School Performance Information) (Amendment) (England) Regulations 2020.

(2) These Regulations come into force on 1st September 2020, except as provided by paragraph (3).

(3) The provisions listed in column 1 of the table in the Schedule, to the extent specified in column 2 of that table, come into force on 1st September 2021.

PART 2

Key Stages 1, 2 and 3 Assessment Arrangements Amendments

Amendment of the Education (National Curriculum) (Key Stage 2 Assessment Arrangements) (England) Order 2003

2.—(1) The Education (National Curriculum) (Key Stage 2 Assessment Arrangements) (England) Order 2003⁽¹⁾ is amended as follows.

(2) In article 3 (interpretation)—

(a) in paragraph (1)—

(i) after the definition of “the core subjects” insert—

““the engagement model” means the document published by the Department for Education on 23rd July 2020 entitled “The engagement model””;

(ii) after the definition of “NC assessment timetable” insert—

(1) S.I. 2003/1038 amended by S.I. 2009/1585, 2010/290, 677 and 1172, 2011/2392, 2012/765 and 838, 2013/1513, 2015/900, 2017/64, 2018/452, 2019/854 and 2020/436.

“the pre-key stage standards document for key stage 1” means the document published by the Department for Education on 23rd July 2020 entitled “Pre-key stage 1: pupils working below the national curriculum assessment standard”;

“the pre-key stage standards document for key stage 2” means the document published by the Department for Education on 23rd July 2020 entitled “Pre-key stage 2: pupils working below the national curriculum assessment standard”;

- (b) in paragraph (3) for “(other than the P Scale Document)”, substitute “(other than the pre-key stage standards document for key stage 1, the pre-key stage standards document for key stage 2 and the engagement model)”.

Amendment of the Education (National Curriculum) (Key Stage 3 Assessment Arrangements) (England) Order 2003

3.—(1) The Education (National Curriculum) (Key Stage 3 Assessment Arrangements) (England) Order 2003⁽²⁾ is amended as follows.

(2) In article 3 (interpretation)—

(a) in paragraph (1)—

(i) after the definition of “the core subjects” insert—

“the engagement model” means the document published by the Department for Education on 23rd July 2020 entitled “The engagement model”;

(ii) after the definition of “the other foundation subjects” insert—

“the pre-key stage standards document for key stage 1” means the document published by the Department for Education on 23rd July 2020 entitled “Pre-key stage 1: pupils working below the national curriculum assessment standard”;

“the pre-key stage standards document for key stage 2” means the document published by the Department for Education on 23rd July 2020 entitled “Pre-key stage 2: pupils working below the national curriculum assessment standard”;

- (b) in paragraph (3) for “(other than the P Scale Document)”, substitute “(other than the pre-key stage standards document for key stage 1, the pre-key stage standards document for key stage 2 and the engagement model)”.

Amendment of the Education (National Curriculum) (Key Stage 1 Assessment Arrangements) (England) Order 2004

4.—(1) The Education (National Curriculum) (Key Stage 1 Assessment Arrangements) (England) Order 2004⁽³⁾ is amended as follows.

(2) In article 3 (interpretation)—

(a) in paragraph (1)—

(i) after the definition of “the Document” insert—

“the engagement model” means the document published by the Department for Education on 23rd July 2020 entitled “The engagement model”;

(ii) after the definition of “NC tests” insert—

“the pre-key stage standards document for key stage 1” means the document published by the Department for Education on 23rd July 2020 entitled “Pre-key stage 1: pupils working below the national curriculum assessment standard”;

(2) S.I. 2003/1039; relevant amending instruments are S.I. 2008/3081, 2010/677, 2011/2392 and 2015/900.

(3) S.I. 2004/2783 amended by S.I. 2010/677 and 1172, 2011/2392 and 3057, 2012/765, 2013/1513, 2015/900 and 2020/436.

- “the pre-key stage standards document for key stage 2” means the document published by the Department for Education on 23rd July 2020 entitled “Pre-key stage 2: pupils working below the national curriculum assessment standard”;
- (b) in paragraph (3) for “(other than the P Scale Document)”, substitute “(other than the pre-key stage standards document for key stage 1, the pre-key stage standards document for key stage 2 and the engagement model)”.
- (3) In article 4 (assessment), after paragraph (6) insert—
- “(7) The head teacher must make a declaration to the Secretary of State that—
- (a) the teacher assessment of pupils has been carried out in accordance with this article and with the provisions of the Document; and
- (b) any issues concerning the maladministration of the teacher assessment of pupils in accordance with this article and the provisions of the Document have been reported to the Secretary of State.”.
- (4) In article 5 (standard task assessment: English and mathematics), after paragraph (3) insert—
- “(4) The head teacher must make a declaration to the Secretary of State that—
- (a) the standard task assessment of pupils has been carried out in accordance with this article and with the provisions of the Document; and
- (b) any issues concerning the maladministration of the standard task assessment of pupils in accordance with this article and the provisions of the Document have been reported to the Secretary of State.”.
- (5) In article 5A (assessment: understanding the correspondence between graphemes and phonemes)—
- (a) in paragraph (1)(a), for “article 1(2)(b)” substitute “article 1(2)(c)”;
- (b) in paragraph (2)—
- (i) in sub-paragraph (a), omit “and”;
- (ii) in sub-paragraph (b)(ii), at the end insert “; and”;
- (iii) after sub-paragraph (b), insert—
- “(c) any pupil who in the 2020-21 school year attains the age of seven—
- (i) who has already been assessed in the 2020-21 school year under sub-paragraph (b); and
- (ii) whose results in that assessment were lower than the level notified to schools by the Secretary of State in relation to that assessment”.
- (6) In article 6A (monitoring of assessments under article 5A), before paragraph (1), insert—
- “(A1) In the 2020-21 school year, a reference in this article to an assessment under article 5A does not include such an assessment if it takes place other than in the summer term of that school year.”.

PART 3

Pupil Information and School Performance Information Amendments

Amendment of the Education (Pupil Information) (England) Regulations 2005

5.—(1) The Education (Pupil Information) (England) Regulations 2005(4) are amended as follows.

(2) In regulation 2 (interpretation)—

- (a) omit the definition of “assessment”;
- (b) in the definition of “the associated document”, for “(other than the P Scale Document)” substitute “(other than the pre-key stage standards document for key stage 1, the pre-key stage standards document for key stage 2 and the engagement model)”;

(c) after the definition of “Departmental number” insert—

““the engagement model” means the document published by the Department for Education on 23rd July 2020 entitled “The engagement model”.”;

(d) after the definition of “NC test tiers” insert—

““the pre-key stage standards document for key stage 1” means the document published by the Department for Education on 23rd July 2020 entitled “Pre-key stage 1: pupils working below the national curriculum assessment standard”, and “the pre-key stage standards for key stage 1” means the standards set out in that document;

“the pre-key stage standards document for key stage 2” means the document published by the Department for Education on 23rd July 2020 entitled “Pre-key stage 2: pupils working below the national curriculum assessment standard”, and “the pre-key stage standards for key stage 2” means the standards set out in that document.”;

(e) omit the definitions of the following—

- (i) “P Scales of attainment”;
- (ii) “P Scale attainment targets”;
- (iii) “P Scale Document”;

(f) after the definition of “the QCDA” insert—

““the relevant key stage” means—

- (a) the first key stage, where section 82(1)(a) of the 2002 Act applies to a pupil;
- (b) the second key stage, where section 82(1)(b) of the 2002 Act applies to a pupil.”.

(3) In Schedule 1 (information to be included in the head teacher’s annual report)—

(a) in paragraph 2(1) omit “Subject to sub-paragraphs (2) and (3)”;

(b) after paragraph 2(1) insert—

“(1A) Sub-paragraph (1) is subject to—

- (a) until 31st August 2021, sub-paragraphs (2) and (2A); and
- (b) on and after 1st September 2021, sub-paragraphs (2), (2A) and (2B).”;

(c) for paragraph 2(2) substitute—

“(2) In the case of a pupil with special educational needs in the first key stage who—

(4) S.I. 2005/1437; relevant amending instruments are S.I. 2007/3224, 2008/1747, 2010/677 and 1836, 2012/765, 2013/3212, 2015/902, 2018/688, 2019/959 and 2020/599.

- (a) is working at a standard below the NC standards of attainment for the first key stage; and
 - (b) is engaged in the study of English reading, English writing or mathematics,
- in addition to the information specified in sub-paragraph (1), the further information that must be included in the report at the end of the first key stage is the pre-key stage standards for key stage 1 achieved by any such pupil in each subject referred to in paragraph (b) that that pupil is studying.
- (2A) In the case of a pupil with special educational needs in the second key stage who—
- (a) is working at a standard below the NC standards of attainment for the second key stage; and
 - (b) is engaged in the study of English reading, English writing or mathematics,
- in addition to the information specified in sub-paragraph (1), the further information that must be included in the report at the end of the second key stage is the pre-key stage standards for key stage 2 achieved by any such pupil in each subject referred to in paragraph (b) that that pupil is studying.
- (2B) In the case of a pupil with special educational needs in the relevant key stage who—
- (a) is working at a standard below the NC standards of attainment for the relevant key stage; and
 - (b) is not engaged in the study of English reading, English writing or mathematics,
- in addition to the information specified in sub-paragraph (1), the further information that must be included in the report at the end of the relevant key stage is a qualitative narrative commentary of the pupil’s achievements and progress in the areas of engagement identified in the engagement model.”;
- (d) in paragraph 3, after the definition of “comparative information” insert—
- ““qualitative narrative commentary” means a brief account of the pupil’s achievements and progress individually, and in relation to the progress of other pupils in the same year, which draws attention to any particular strengths and weaknesses of the pupil.”.
- (4) In Schedule 2 (information forming part of the common transfer file)—
- (a) in paragraph 6—
 - (i) in sub-paragraph (1), for “sub-paragraphs (2) and (3)” substitute “sub-paragraphs (2) to (5)”;
 - (ii) for sub-paragraph (3) substitute—

“(3) In the case of a pupil with special educational needs in the first key stage who—

 - (a) is working at a standard below the NC standards of attainment for the first key stage; and
 - (b) is engaged in the study of English reading, English writing or mathematics,

the pupil’s cumulative achievements in education at the end of the first key stage are the pre-key stage standards for key stage 1 achieved in each subject referred to in paragraph (b) that that pupil is studying.
 - (4) In the case of a pupil with special educational needs in the second key stage who—

- (a) is working at a standard below the NC standards of attainment for the second key stage; and
 - (b) is engaged in the study of English reading, English writing or mathematics, the pupil’s cumulative achievements in education at the end of the second key stage are the pre-key stage standards for key stage 2 achieved in each subject referred to in paragraph (b) that that pupil is studying.
- (5) Sub-paragraphs (1) to (4) of this paragraph do not apply in the case of a pupil with special educational needs in the relevant key stage who—
- (a) is working at a standard below the NC standards of attainment for the relevant key stage; and
 - (b) is not engaged in the study of English reading, English writing or mathematics.”;
- (b) after paragraph 6 insert—
- “7. In the case of a pupil with special educational needs in the relevant key stage who—
- (a) is working at a standard below the NC standards of attainment for the relevant key stage; and
 - (b) is not engaged in the study of English reading, English writing or mathematics, whether the engagement model is being used for the purposes of specifying the achievements and progress of that pupil in the areas of engagement identified in the engagement model at the end of the relevant key stage.”.

Amendment of the Education (School Performance Information) (England) Regulations 2007

6.—(1) The Education (School Performance Information) (England) Regulations 2007(5) are amended as follows.

- (2) In regulation 2 (interpretation)—
- (a) after the definition of “the Document” insert—

““the engagement model” means the document published by the Department for Education on 23rd July 2020 entitled “The engagement model”.”;
 - (b) after the definition of “external marking agency” insert—

““foundation subjects” means art and design, citizenship, design and technology, geography, history, information and communications technology, a modern foreign language, music, physical education and the core subjects.”;
 - (c) after the definition of “National Data Collection Agency” insert—

““NC standards of attainment” means the National Curriculum standards of attainment described in any document (other than the pre-key stage standards document for key stage 1, the pre-key stage standards document for key stage 2 and the engagement model) published by the Department for Education pursuant to an order made under section 87(3)(a) or (b) of the 2002 Act for the foundation subjects, setting out any attainment targets and programmes of study for each of those subjects.”;
 - (d) after the definition of “non-maintained special school” insert—

““the pre-key stage standards for key stage 1” means the standards set out in the document published by the Department for Education on 23rd July 2020 entitled “Pre-key stage 1: pupils working below the national curriculum assessment standard”;

“the pre-key stage standards for key stage 2” means the standards set out in the document published by the Department for Education on 23rd July 2020 entitled “Pre-key stage 2: pupils working below the national curriculum assessment standard”;

(e) omit the definition of “P Scale”;

(f) for the definition of “reporting school year” substitute—

““reporting school year” means—

- (i) in regulation 5(2), in relation to an assessment taken in the 2020-21 school year, the school year in which the assessment is taken; or
- (ii) where paragraph (i) does not apply, the school year immediately preceding the school year in which information provided to the Secretary of State is to be published by the Secretary of State or, as the case may be, the authority;”.

(3) In Schedule 2 (provision of information to the Secretary of State: second key stage results), for paragraph 3 substitute—

“**3.**—(1) In respect of any pupil referred to in paragraph 2(1) who has special educational needs and—

- (a) is working at a standard below the NC standards of attainment for the second key stage; and
- (b) is engaged in the study of English reading, English writing or mathematics,

the pre-key stage standards for key stage 2 achieved by any such pupil in each subject referred to in paragraph (b) that that pupil is studying at the end of the second key stage.

(2) In respect of any pupil referred to in paragraph 2(1) who has special educational needs and—

- (a) is working at a standard below the NC standards of attainment for the second key stage; and
- (b) is not engaged in the study of English reading, English writing or mathematics,

whether the engagement model is being used for the purposes of specifying the achievements and progress of any such pupil in the areas of engagement identified in the engagement model at the end of the second key stage.”.

(4) In Schedule 8 (provision of information to the National Data Collection Agency and the External Marking Agency), in Part 1, in paragraph 1(2) for paragraph (b) substitute—

“(b) whether the pupil was assessed by a teacher using—

- (i) the pre-key stage standards for key stage 2 and the standard achieved by that pupil; or
- (ii) the engagement model;”.

PART 4

Standards of attainment for pupils with special educational needs

Amendment of the Education (National Curriculum) (Attainment Targets and Programmes of Study) (England) Order 2013

7.—(1) The Education (National Curriculum) (Attainment Targets and Programmes of Study) (England) Order 2013⁽⁶⁾ is amended as follows.

(2) In article 2 (interpretation)—

(a) before sub-paragraph (a) insert—

“(aa) “the engagement model” means the document published by the Department for Education on 23rd July 2020 entitled “The engagement model”;;”;

(b) for sub-paragraph (b) substitute—

“(b) “NC standards of attainment” means the National Curriculum standards of attainment described in any document (other than the pre-key stage standards document for key stage 1, the pre-key stage standards document for key stage 2 and the engagement model) published by the Department for Education pursuant to an order made under section 87(3)(a) or (b) of the Education Act 2002 for the foundation subjects, setting out any attainment targets and programmes of study for each of those subjects;

(c) “the pre-key stage standards for key stage 1” means the standards set out in the document published by the Department for Education on 23rd July 2020 entitled “Pre-key stage 1: pupils working below the national curriculum assessment standard”;

(d) “the pre-key stage standards for key stage 2” means the standards set out in the document published by the Department for Education on 23rd July 2020 entitled “Pre-key stage 2: pupils working below the national curriculum assessment standard”;

(e) “the relevant key stage” means—

(i) the first key stage, where section 82(1)(a) of the Education Act 2002 applies to a pupil;

(ii) the second key stage, where section 82(1)(b) of the Education Act 2002 applies to a pupil;

(f) “special educational needs” is to be interpreted in accordance with section 20(1) of the Children and Families Act 2014⁽⁷⁾.”.

(3) In article 3(3) (specification of attainment targets and programmes of study) omit “Subject to article 5,”.

(4) For article 5 substitute—

“5.—(1) In relation to any pupil who—

(a) is in the first key stage;

(b) has special educational needs;

(c) is working at a standard below the NC standards of attainment for the first key stage; and

⁽⁶⁾ S.I. 2013/2232, the relevant amending instruments are S.I. 2014/1941, 3285 and 2015/900.

⁽⁷⁾ 2014 c. 6.

(d) is engaged in the study of English reading, English writing or mathematics, the pre-key stage standards for key stage 1 must be used for the purposes of specifying the attainment targets of that pupil in each subject referred to in sub-paragraph (d) that that pupil is studying.

(2) In relation to any pupil who—

- (a) is in the second key stage;
- (b) has special educational needs;
- (c) is working at a standard below the NC standards of attainment for the second key stage; and

(d) is engaged in the study of English reading, English writing or mathematics, the pre-key stage standards for key stage 2 must be used for the purposes of specifying the attainment targets of that pupil in each subject referred to in sub-paragraph (d) that that pupil is studying.

(3) In relation to any pupil who—

- (a) is in the first or second key stage;
- (b) has special educational needs;
- (c) during the relevant key stage, is working at a standard below the NC standards of attainment for the relevant key stage; and

(d) is not engaged in the study of English reading, English writing or mathematics, the engagement model must be used for the purposes of specifying the attainment targets by way of specifying the achievements and progress of that pupil in the areas of engagement identified in the engagement model.

(4) In relation to any pupil—

- (a) who is in the first key stage; and
- (b) to whom paragraph (1) or (3) applies,

there is no requirement to specify attainment targets in relation to science, art and design, computing, design and technology, geography, history, music and physical education.

(5) In relation to any pupil—

- (a) who is in the second key stage; and
- (b) to whom paragraph (2) or (3) applies,

there is no requirement to specify attainment targets in relation to science, art and design, computing, design and technology, a foreign language, geography, history, music and physical education.”.

Signed by authority of the Secretary of State for Education

7th August 2020

Nick Gibb
Minister of State
Department for Education