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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(1), the Secretary of State for Education and Skills hereby makes the following Order:

**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.

(2) The provisions of this Order 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.

(3) This Order applies to maintained schools (other than those established in hospitals) in England.

**Revocation**

2. The Education (National Curriculum) (Key Stage 1 Assessment Arrangements) (England) Order 2003(2) is hereby revoked.

**Interpretation**

3.—(1) In this Order—

“the associated documents” means the documents published by the Department for Education and Skills and the Authority, setting out any levels of attainment, attainment targets and programmes of study in relation to the core subjects, which documents have effect by virtue of the respective section 87(3)(a) and (b) orders for those subjects for the time being in force;

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(1) 2002 c. 32.  
(2) S.I.2003/1037.

“the Authority” means the Qualifications and Curriculum Authority established under section 21 of the Education Act 1997(3);

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

“the core subject topics” means speaking and listening, reading, writing, mathematics and science;

“the Document” means the document entitled “Key Stage 1 Assessment and Reporting Arrangements” published by the Authority pursuant to section 87(5) of the Education Act 2002;

“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;

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

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

(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.

(3) In this Order references to levels of attainment, attainment targets and programmes of study are references to the levels, targets and programmes set out in the associated documents.

### **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.

(2) The purpose of the assessment shall be to determine the level of attainment achieved by the pupil in each of the core subject topics which applies to the pupil except where article 7(3) applies.

(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.

(4) A record of the results shall consist of a statement of each level of attainment which the teacher assesses has been achieved by the pupil (whether or not that level is specified in relation to the first key stage by the relevant section 87(3)(a) and (b) order) in relation to each of the core subject topics mentioned in paragraph (2).

(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.

### **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”.

(2) This article applies to a pupil in respect of English and mathematics 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 standard tasks in accordance with the provisions of paragraph (3), would be level 1 or higher.

(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.

### **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 levels of all pupils at the school determined by teacher assessments (whether or not moderated) shall be the levels 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 level of attainment determined by the moderating authority differs from the level determined by a teacher assessment, the level determined by the moderating authority after moderation shall be the level 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 this Order;
- (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.

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

7.—(1) The modifications set out in this article apply in respect of pupils to whom provisions of the National Curriculum for England do not apply (including pupils with statements of special educational needs).

(2) Where in the case of mathematics and science one attainment target does not apply to such a pupil, the pupil shall be treated as though the number of attainment targets applying to the pupil were the total number of attainment targets in the subject and the attainment target which does not apply were ignored.

(3) Where in the case of mathematics and science more than one attainment target does not apply to such a pupil, the pupil shall not be assessed in relation to that subject.

### **Evaluation of Assessment Arrangements**

8. The Authority shall make such arrangements as seem to them appropriate for determining the extent to which the implementation of articles 4 to 7 achieve the purpose mentioned in article 1(2).

### **Supplementary Powers of the Secretary of State**

9. 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 87(7) of the Education Act 2002) as appear to him to be expedient, including in particular provisions as to standard tasks for the purpose of assessing pupils' levels of attainment in any attainment target or core subject and as to the time when and the manner in which they are to be administered; and any provisions the Secretary of State may so make shall be published by the Authority.

27th October 2004

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

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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.