

2013 No. 1513

EDUCATION, ENGLAND AND WALES

**The Education (National Curriculum) (Key Stages 1 and 2
Assessment Arrangements) (England) (Amendment) Order 2013**

Made - - - - *19th June 2013*

Coming into force in accordance with article 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 (7) and 210(7)(a) of the Education Act 2002.

Citation and commencement

1. This Order may be cited as the Education (National Curriculum) (Key Stages 1 and 2 Assessment Arrangements) (England) (Amendment) Order 2013 and comes into force on the day after the day on which it is made.

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(b) is amended as follows.

(2) In article 3 (interpretation)—

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

““external administrator” means a person with whom the Secretary of State has made arrangements in connection with the implementation of the science NC test;”;

(b) for the definition of “record of results” or (as the case may be) “record of the result” substitute—

““record of results” or (as the case may be) “record of the result”—

(a) for the purposes of article 5, means a record of the results of a pupil in respect of the NC tests administered to the pupil under article 5(3), consisting of a statement of each level of attainment achieved by the pupil; and

(b) for the purposes of article 7, means a record of the results of a pupil in respect of the NC tests administered to the pupil under article 5;”

(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, 2010/1172, 2011/2392 and 2012/838.

- (c) omit the definitions of “single level test” and “year 6 single level test”; and
 - (d) omit paragraph (3A).
- (3) For article 4(5) (teacher assessment) substitute—
- “(5) In making an assessment of a pupil pursuant to this article, a teacher may take into account the results of any previous assessment of the pupil, whether or not made by that teacher.”.
- (4) In article 5 (NC test assessment)—
- (a) in paragraph (2) for “paragraphs (2A) and” substitute “paragraph (2B)”;
 - (b) omit paragraph (2A);
 - (c) for paragraph (2B) substitute—
 - “(2B) This articles applies to a pupil in respect of science only—
 - (a) in the 2013-14 school year^(a) and every second school year after that;
 - (b) if the pupil’s school has been designated for the purposes of this article; and
 - (c) if the pupil has been selected by the Secretary of State to be assessed in science.”.
 - (d) omit paragraph (4ZA); and
 - (e) for paragraph (4A) substitute—
 - “**4A.** Where this article applies to a pupil in respect of science an external administrator must make arrangements for a NC test to be administered to the pupil in accordance with any arrangements for such a test made under article 11(1)(a) or (b).”.
- (5) Omit article 5A (single level tests in mathematics).
- (6) After article 5A insert—

“Moderation of teacher assessment in writing

5B.—(1) This article makes provision for the moderation of teacher assessment under article 4 by a local authority.

(2) In any school year, the local authority must exercise the functions conferred by this article—

- (a) in relation to the AT of writing in the core subject of English;
- (b) in relation to pupils in the final year of the second key stage;
- (c) in relation to at least 25% of all schools maintained by the local authority; and
- (d) in relation to those schools not falling within paragraph (2)(c) in relation to which in the opinion of the local authority a further moderation should be made.

(3) For the purposes of paragraph (2) the local authority must exercise its functions so as to secure that in any period of four years moderations have been completed in relation to all schools maintained by the authority.

(4) To enable a local authority to moderate teacher assessments, the head teacher must—

- (a) provide the local authority with the following information—
 - (i) in relation to each pupil in the final year of the second key stage; the level of attainment achieved by the pupil in the AT of writing as determined by teacher assessment; and
 - (ii) in relation to the pupils whose assessments the local authority has selected for moderation, and such number of additional pupils as the local authority requests (if any),—

(a) See section 76 of the Education Act 2002 for the definition of “school year”.

- (aa) examples of the written work produced by those pupils in the course of the school year; and
 - (bb) such further material as the local authority may reasonably request or which the school considers may be relevant; and
 - (b) make arrangements for the local authority to discuss the results of the teacher assessments with the teachers who gave the assessments.
- (5) After moderating the teacher assessments, the local authority must notify the head teacher of the result of the moderation.
- (6) If the result of the moderation is that the local authority considers that the teacher assessments are accurate, the level of attainment determined by teacher assessment in respect of each pupil (whether or not moderated) shall be the level of attainment achieved by that pupil.
- (7) Subject to paragraph (8), if the result of the moderation is that the local authority considers that any of the teacher assessments is inaccurate, the head teacher must make arrangements for the teachers concerned to alter the results which the local authority considers are inaccurate.
- (8) If the head teacher does not agree with any of the results of the moderation the local authority must review the results of the teacher assessments disputed by the head teacher and notify the head teacher of the result of the review.
- (9) If the head teacher does not agree with the result of the review under paragraph (8), the head teacher may refer the results of the teacher assessments disputed by the head teacher to the Secretary of State.
- (10) For the purpose of exercising their functions under this article the local authority may appoint such competent persons as they think fit.
- (11) A person is not competent for the purposes of paragraph (10) unless he has recent experience of the provisions of the National Curriculum for England in primary schools.”.
- (7) In article 6 (monitoring of assessment arrangements)—
- (a) omit paragraph (3A); and
 - (b) after paragraph (3) insert—
 - “(3ZA) The functions conferred on the monitoring authority by this article do not apply in respect of the NC test in science.”.
- (8) Omit article 6A (monitoring of assessment arrangements in relation to single level tests).
- (9) After article 6A insert—

“Investigation by the Secretary of State and determination of teacher assessment

- 6B.** Where a matter is referred to the Secretary of State under article 5B(9) 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 level of attainment of any pupil in respect of the assessment administered under article 4, the Secretary of State must—
- (a) determine the level of attainment achieved by each pupil whose teacher assessment is disputed; and
 - (b) notify the head teacher of the level of attainment determined by the Secretary of State, which shall be the level of attainment achieved by that pupil.”.
- (10) In article 7 (investigation by the Secretary of State and correction of record of results)—
- (a) in paragraph (1)—
 - (i) omit “or 6A(7)”; and
 - (ii) omit “or a year 6 single level test administered under article 5A”;
 - (b) omit paragraph (1A);
 - (c) in paragraph (2)—

- (i) for “a relevant investigation” substitute “an investigation”; and
 - (ii) omit “or 5A(10)” and “or 5A”;
 - (d) omit paragraph (2A); and
 - (e) omit paragraphs (4) and (5).
- (11) In article 11 (supplementary powers of the Secretary of State), omit paragraphs (1)(d) to (f).

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

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

(2) In article 1(3) (citation, commencement and application) at the end add “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”.

(3) For the definition of “the core subject topics” in article 3 (interpretation) substitute—
 ““the core subject topics” means speaking and listening, reading, writing, mathematics/number, using and applying mathematics, shape, space and measures, scientific enquiry, life processes and living things, materials and their properties and physical processes;”.

(4) For article 4(2) (assessment) substitute—
 “(2) The purpose of the assessment shall be to determine the level of attainment achieved by the pupil—
 (a) in each of the core subject topics which applies to the pupil; and
 (b) except where article 7(3) applies, in each core subject as calculated in accordance with any delegated supplementary provisions”.

(5) For article 5A(2) (assessment: understanding the correspondence between graphemes and phonemes) substitute—

“(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.”.

(6) After article 6A (monitoring of assessments under article 5A) insert—

“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.”.

(a) S.I. 2004/2783; relevant amending instruments are S.I. 2010/677, 2011/2392 and 2011/3057.

19th June 2013

Elizabeth Truss
Parliamentary Under Secretary 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.

Article 2 omits provisions relating to single level tests and to the English writing test. It also amends provisions in relation to science in order to introduce a new biennial test. It makes provision for the moderation of teacher assessment in writing and for determination by the Secretary of State.

The Order also amends the Education (National Curriculum) (Key Stage 1 Assessment Arrangements) (England) Order 2004.

Article 3 makes provision for the application of that Order to maintained nursery schools that have pupils aged 6. It amends the definition of “core subject topics” so as to include the attainment targets in science and mathematics. It amends article 4(2) to require teacher assessment to determine overall levels as well as levels against each attainment target. It provides that a phonics check must be carried out in respect of those pupils who were not assessed the previous year. It also makes provision for the Secretary of State to make a determination in relation to a pupil’s phonics check.

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

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