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STATUTORY INSTRUMENTS

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**2016 No. 476**

**EDUCATION, ENGLAND**

**The Education (National Curriculum) (Key Stage 4 Assessment Arrangements) (England) Order 2016**

*Made* - - - - *31st March 2016*

*Coming into force* - - *1st September 2016*

The Secretary of State makes this Order in exercise of the powers in sections 87(3)(c), (7), (10), (11), (12A), (13) and 210(7) of the Education Act 2002<sup>(1)</sup>.

The Secretary of State has consulted the Office of Qualifications and Examinations Regulation<sup>(2)</sup> in accordance with section 87(6A)(a) of the Education Act 2002<sup>(3)</sup>.

**Citation and commencement**

1. This Order may be cited as the Education (National Curriculum) (Key Stage 4 Assessment Arrangements) (England) Order 2016 and comes into force on 1st September 2016.

**Interpretation**

2. In this Order—

“National reference test” means an assessment administered by a test supplier to assess the performance of pupils in English language or mathematics;

“school” means a maintained school<sup>(4)</sup>;

“test supplier” means a body with which the Secretary of State has made arrangements in connection with the development and implementation of national reference tests.

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- (1) 2002 c. 32. Section 87(7) was amended by sections 174, 192 and 266 of, and paragraphs 31, 35(1), (3)(a) and (3)(b) of Schedule 12 and Part 4 of Schedule 16 to, the Apprenticeships, Skills, Children and Learning Act 2009 (c. 22); and by section 26 of, and paragraphs 11 and 13 of Schedule 8 to, the Education Act 2011 (c. 21). There are other amendments not relevant to this instrument. Section 87(10) was amended by sections 174 and 192 of, and paragraphs 31, 35(1) and (5) of Schedule 12 to, the Apprenticeships, Skills, Children and Learning Act 2009; and by sections 48 and 103(2) of, and paragraphs 10(1) and (8)(b) of Schedule 1 and Part 1 of Schedule 3 to, the Childcare Act 2006 (c. 21). Section 87(11) was amended by sections 174 and 192 of, and paragraphs 31, 35(1) and (6) of Schedule 12 to, the Apprenticeships, Skills, Children and Learning Act 2009. Section 87(12A) was inserted by section 159(1) and (4) of the Apprenticeships, Skills, Children and Learning Act 2009.
- (2) The Office of Qualifications and Examinations Regulation is a Non-Ministerial Department established under section 127 of the Apprenticeships, Skills, Children and Learning Act 2009.
- (3) Section 87(6A) was inserted by section 159(1) and (2) of the Apprenticeships, Skills, Children and Learning Act 2009.
- (4) For the definition of maintained school see section 76 of the Education Act 2002.

### **National reference tests**

3.—(1) Subject to paragraph (6), the head teacher of a school designated under sub-paragraph (3)(a) must arrange for each pupil to whom this article applies to take a national reference test in either English language or mathematics but not both.

(2) Subject to paragraph (6), this article applies—

- (a) in the 2016-17 school year<sup>(5)</sup> and every school year after that;
- (b) to a pupil in the final year of the fourth key stage; and
- (c) if the pupil has been selected by the test supplier by virtue of sub-paragraph (3)(b).

(3) The test supplier must—

- (a) designate schools from which pupils will be selected to take a national reference test;
- (b) select pupils to take a national reference test from schools which are so designated.

(4) The test supplier must—

- (a) notify a school which it has designated under sub-paragraph (3)(a) of the fact of its designation in writing within four weeks of that designation;
- (b) notify a school which it has designated under sub-paragraph (3)(a) of the identity of the pupils at that school who have been selected under sub-paragraph (3)(b) in writing within four weeks of that selection.

(5) The head teacher must provide to the test supplier a list of pupils who are in the final year of the fourth key stage at the school within four weeks of receiving the notification under sub-paragraph (4)(a).

(6) The head teacher must consider whether each pupil at the school who has been selected under paragraph (3)(b) should take a national reference test, and if the head teacher decides that a pupil should not do so, this article does not apply to that pupil.

### **Right of entry of test supplier**

4. The head teacher must permit a test supplier to enter premises of the school to observe implementation of national reference tests and to inspect and take copies of documents and other articles in connection with the moderation or monitoring of national reference tests.

### **Delegated supplementary provisions**

5.—(1) The test supplier may make delegated supplementary provisions in relation to—

- (a) the administration of national reference tests and the time when, and the manner in which, national reference tests are to be administered;
- (b) the designation of schools under article 3(3)(a);
- (c) the selection of pupils under article 3(3)(b);
- (d) the reasons for which the head teacher may decide under article 3(6) that a pupil should not take a national reference test.

(2) Before making, amending or revoking any delegated supplementary provisions, the test supplier must consult the Office of Qualifications and Examinations Regulation and may consult such other persons as the test supplier considers appropriate.

(3) Delegated supplementary provisions made under this article—

- (a) may only be made with the approval of the Secretary of State;

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(5) For the definition of school year see section 579 of the Education Act 1996 (c.56).

- (b) must be published by the Secretary of State;
- (c) will have effect from the day after the date of publication.

31st March 2016

*Nick Boles*  
Minister of State  
Department for Education

**Status:** This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

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## EXPLANATORY NOTE

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

This Order specifies the assessment arrangements for pupils in the fourth key stage. In particular it makes provision for the introduction of new national reference tests from the 2016-17 school year. The tests will apply to pupils in a sample of schools who are in the final year of the fourth key stage shortly before they sit their GCSEs. Pupils who are selected will take tests based on the GCSE content in either English language or mathematics. The purpose of the tests is to provide evidence of changes in performance over time in English language and mathematics in England at the end of Year 11. The tests will allow the regulator, the Office of Qualifications and Examinations Regulation (Ofqual) to assess, over several years, whether there is a change in the performance of pupils in English language and mathematics at a national level, which will in turn inform the awarding of grades in all subjects.

The Order confers functions on the head teacher and on the test supplier under section 87(7) of the Education Act 2002 to facilitate these assessment arrangements. The pupils who will take the tests will be selected by a test supplier, who will administer the tests and will have the power to make delegated supplementary provisions in respect of them, subject to the Secretary of State's approval. The head teacher must arrange for pupils who have been selected to take the tests subject to article 3(6).

An impact assessment has not been produced for this instrument as no, or no significant, impact on the private, voluntary or public sectors is foreseen.