

STATUTORY INSTRUMENTS

**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 <sup>M1</sup>, the Secretary of State for Education and Skills hereby makes the following Order:

**Marginal Citations**

**M1** 2002 c. 32.

**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.

[<sup>F1</sup>(2) In this Order <sup>F2</sup>...—

<sup>F3</sup>(a) .....

[<sup>F4</sup>(b) article 4A applies for the purpose of determining the suitability of test materials for use in NC tests; and

(c) articles 5A and 6A apply for the purpose of ascertaining the extent to which pupils in the first key stage understand the correspondence between graphemes and phonemes in English.]]

(3) This Order applies to maintained schools (other than those established in hospitals) in England [<sup>F5</sup>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].

<sup>F6</sup>(4) .....

<sup>F6</sup>(4A) .....

<sup>F6</sup>(4B) .....

<sup>F6</sup>(5) .....

**Changes to legislation:** There are currently no known outstanding effects for the *The Education (National Curriculum) (Key Stage 1 Assessment Arrangements) (England) Order 2004*. (See end of Document for details)

F6(6) .....

**Textual Amendments**

**F1** Art. 1(2) substituted (21.12.2011) by *The Education (National Curriculum) (Key Stage 1 Assessment Arrangements) (England) (Amendment) Order 2011* (S.I. 2011/3057), arts. 1, **3**

**F2** Words in art. 1(2) omitted (1.9.2023) by virtue of *The Education (National Curriculum) (Key Stage 1 Assessment Arrangements) (England) (Amendment) Order 2023* (S.I. 2023/375), arts. 1, **5(a)(i)** (with art. 13)

**F3** Art. 1(2)(a) omitted (1.9.2023) by virtue of *The Education (National Curriculum) (Key Stage 1 Assessment Arrangements) (England) (Amendment) Order 2023* (S.I. 2023/375), arts. 1, **5(a)(ii)** (with art. 13)

**F4** Art. 1(2)(b)(c) substituted for art. 1(2)(b) (1.9.2015) by *The Education (National Curriculum) (Miscellaneous Amendments) (England) Order 2015* (S.I. 2015/900), arts. 1, **3(b)**

**F5** Words in art. 1(3) added (20.6.2013) by *The Education (National Curriculum) (Key Stages 1 and 2 Assessment Arrangements) (England) (Amendment) Order 2013* (S.I. 2013/1513), arts. 1, **3(2)**

**F6** Art. 1(4)-(6) omitted (1.9.2023) by virtue of *The Education (National Curriculum) (Key Stage 1 Assessment Arrangements) (England) (Amendment) Order 2023* (S.I. 2023/375), arts. 1, **5(b)** (with art. 13)

**Revocation**

2. The Education (National Curriculum) (Key Stage 1 Assessment Arrangements) (England) Order 2003 <sup>M2</sup> is hereby revoked.

**Marginal Citations**

**M2** [S.I.2003/1037](#).

**Interpretation**

3.—(1) In this Order—

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[<sup>F15c</sup>“NC tests” means National Curriculum assessments designed to be administered to pupils in the first key stage;]

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[<sup>F21</sup>“trial” means an assessment for the purpose of determining the suitability of test materials for use in NC tests;

“trailing agency” means a body approved by the Secretary of State to administer trials in respect of test materials for use in NC tests.]

(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.

<sup>F22</sup>(3) .....

### Textual Amendments

- F7** Words in art. 3 omitted (1.9.2015) by virtue of [The Education \(National Curriculum\) \(Miscellaneous Amendments\) \(England\) Order 2015 \(S.I. 2015/900\)](#), arts. 1, **4(a)**
- F8** Words in art. 3(1) omitted (1.4.2010) by virtue of [The Apprenticeships, Skills, Children and Learning Act 2009, Parts 7 and 8 \(Consequential Amendments\) Order 2010 \(S.I. 2010/677\)](#), arts. 1, **10(2)(b)**
- F9** Words in art. 3(1) omitted (1.9.2023) by virtue of [The Education \(National Curriculum\) \(Key Stage 1 Assessment Arrangements\) \(England\) \(Amendment\) Order 2023 \(S.I. 2023/375\)](#), arts. 1, **6(a)(i)** (with art. 13)
- F10** Words in art. 3 omitted (1.9.2015) by virtue of [The Education \(National Curriculum\) \(Miscellaneous Amendments\) \(England\) Order 2015 \(S.I. 2015/900\)](#), arts. 1, **4(b)**
- F11** Words in art. 3(1) omitted (1.9.2023) by virtue of [The Education \(National Curriculum\) \(Key Stage 1 Assessment Arrangements\) \(England\) \(Amendment\) Order 2023 \(S.I. 2023/375\)](#), arts. 1, **6(a)(ii)** (with art. 13)
- F12** Words in art. 3(1) omitted (1.9.2023) by virtue of [The Education \(National Curriculum\) \(Key Stage 1 Assessment Arrangements\) \(England\) \(Amendment\) Order 2023 \(S.I. 2023/375\)](#), arts. 1, **6(a)(iii)** (with art. 13)
- F13** Words in art. 3(1) omitted (1.9.2023) by virtue of [The Education \(National Curriculum\) \(Key Stage 1 Assessment Arrangements\) \(England\) \(Amendment\) Order 2023 \(S.I. 2023/375\)](#), arts. 1, **6(a)(v)** (with art. 13)
- F14** Words in art. 3(1) omitted (1.9.2023) by virtue of [The Education \(National Curriculum\) \(Key Stage 1 Assessment Arrangements\) \(England\) \(Amendment\) Order 2023 \(S.I. 2023/375\)](#), arts. 1, **6(a)(vi)** (with art. 13)
- F15** Words in art. 3(1) substituted (1.9.2023) by [The Education \(National Curriculum\) \(Key Stage 1 Assessment Arrangements\) \(England\) \(Amendment\) Order 2023 \(S.I. 2023/375\)](#), arts. 1, **6(b)** (with art. 13)
- F16** Words in art. 3(1) omitted (1.9.2023) by virtue of [The Education \(National Curriculum\) \(Key Stage 1 Assessment Arrangements\) \(England\) \(Amendment\) Order 2023 \(S.I. 2023/375\)](#), arts. 1, **6(a)(vii)** (with art. 13)
- F17** Words in art. 3(1) omitted (1.9.2023) by virtue of [The Education \(National Curriculum\) \(Key Stage 1 Assessment Arrangements\) \(England\) \(Amendment\) Order 2023 \(S.I. 2023/375\)](#), arts. 1, **6(a)(viii)** (with art. 13)
- F18** Words in art. 3(1) omitted (1.9.2023) by virtue of [The Education \(National Curriculum\) \(Key Stage 1 Assessment Arrangements\) \(England\) \(Amendment\) Order 2023 \(S.I. 2023/375\)](#), arts. 1, **6(a)(iv)** (with art. 13)
- F19** Words in art. 3(1) omitted (1.9.2023) by virtue of [The Education \(National Curriculum\) \(Key Stage 1 Assessment Arrangements\) \(England\) \(Amendment\) Order 2023 \(S.I. 2023/375\)](#), arts. 1, **6(a)(ix)** (with art. 13)

- F20** Words in art. 3(1) omitted (1.9.2023) by virtue of *The Education (National Curriculum) (Key Stage 1 Assessment Arrangements) (England) (Amendment) Order 2023* (S.I. 2023/375), arts. 1, **6(a)(x)** (with art. 13)
- F21** Words in art. 3 inserted (1.9.2015) by *The Education (National Curriculum) (Miscellaneous Amendments) (England) Order 2015* (S.I. 2015/900), arts. 1, **4(d)**
- F22** Art. 3(3) omitted (1.9.2023) by virtue of *The Education (National Curriculum) (Key Stage 1 Assessment Arrangements) (England) (Amendment) Order 2023* (S.I. 2023/375), arts. 1, **6(c)** (with art. 13)

**Assessment**

<sup>F23</sup>4. ....

**Textual Amendments**

**F23** Art. 4 revoked (1.9.2023) by *The Education (National Curriculum) (Key Stage 1 Assessment Arrangements) (England) (Amendment) Order 2023* (S.I. 2023/375), arts. 1, **7** (with art. 13)

**[<sup>F24</sup>Determining the suitability of test materials for key stage 1 National Curriculum tests**

**4A.**—(1) If this article applies the head teacher must make arrangements for each pupil to be assessed by a trialling agency in respect of test materials for use in NC tests.

(2) This article applies to a pupil in the final year of the first key stage in respect of English and mathematics—

- (a) if the pupil’s school has been designated for the purposes of this article, and
- (b) if the pupil has been selected by the Secretary of State or, in circumstances where the Secretary of State has requested the school’s head teacher to select the pupil, by the head teacher to be trialled in respect of test materials for use in NC tests.

(3) This article applies to a pupil in the first year of the first key stage in respect of understanding the correspondence between graphemes and phonemes—

- (a) if the pupil’s school has been designated for the purpose of this article, and
- (b) if the pupil has been selected by the Secretary of State or, in circumstances where the Secretary of State has requested the school’s head teacher to select the pupil, by the head teacher to be trialled in respect of test materials for use in NC tests.

(4) Paragraphs (2) and (3) apply only in the 2015-16 school year and every school year after that, as determined by the Secretary of State at the beginning of the first term of that school year.

(5) The Secretary of State must notify each designated school in writing within two weeks of making a determination to designate for the purposes of this article.

(6) If a pupil is selected by the Secretary of State under paragraphs 2(b) or 3(b), the head teacher must consider and decide whether that pupil is to be included in any trial carried out in accordance with this article.

(7) This article does not apply to a pupil if the head teacher decides the pupil should not be included in any trial.

(8) Where this article applies to a pupil in respect of any test materials for use in NC tests, a trialling agency must administer the trial to the pupil, in respect of the test materials, in accordance with any arrangements for such test materials made under article 9(1)(b).]

**Textual Amendments**

**F24** Art. 4A inserted (1.9.2015) by [The Education \(National Curriculum\) \(Miscellaneous Amendments\) \(England\) Order 2015 \(S.I. 2015/900\)](#), arts. 1, **6**

**Standard task assessment: English and mathematics**

<sup>F25</sup>5. ....

**Textual Amendments**

**F25** Art. 5 revoked (1.9.2023) by [The Education \(National Curriculum\) \(Key Stage 1 Assessment Arrangements\) \(England\) \(Amendment\) Order 2023 \(S.I. 2023/375\)](#), arts. 1, **8** (with art. 13)

**[<sup>F26</sup>Assessment: understanding the correspondence between graphemes and phonemes**

**5A.—**(1) The head teacher must—

- (a) make arrangements for each pupil to whom this article applies to be assessed by a teacher for the purpose referred to in [<sup>F27</sup>article 1(2)(c)] in accordance with this article and any delegated supplementary provisions relating to an assessment under this article;
- (b) make arrangements for the results of the assessment of each such pupil to be recorded; and
- (c) make a declaration to the Secretary of State that the assessment of pupils has been carried out in accordance with this article and those delegated supplementary provisions.

[<sup>F28</sup>(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; <sup>F29</sup>... [<sup>F30</sup>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 <sup>F31</sup>...

<sup>F32</sup>(bb) .....

<sup>F33</sup>(c) ..... ]

(3) The head teacher must consider whether a pupil falling within paragraph (2)(a) or (b) should not be assessed in accordance with this article and where the head teacher so decides—

- (a) this article does not apply to that pupil; and
- (b) the head teacher must inform the pupil’s parents prior to the time when the assessment is to be administered that the pupil will not be assessed in that school year.]

**Textual Amendments**

**F26** Art. 5A inserted (21.12.2011) by [The Education \(National Curriculum\) \(Key Stage 1 Assessment Arrangements\) \(England\) \(Amendment\) Order 2011 \(S.I. 2011/3057\)](#), arts. 1, **4**

**F27** Words in art. 5A(1)(a) substituted (1.9.2020) by [The Education \(National Curriculum Assessment Arrangements, Attainment Targets and Programmes of Study\) and \(Pupil Information and School](#)

**Changes to legislation:** There are currently no known outstanding effects for the The Education (National Curriculum) (Key Stage 1 Assessment Arrangements) (England) Order 2004. (See end of Document for details)

- Performance Information) (Amendment) (England) Regulations 2020 (S.I. 2020/844), regs. 1(2), **4(5)(a)**
- F28** Art. 5A(2) substituted (20.6.2013) by The Education (National Curriculum) (Key Stages 1 and 2 Assessment Arrangements) (England) (Amendment) Order 2013 (S.I. 2013/1513), arts. 1, **3(5)**
- F29** Word in art. 5A(2)(a) omitted (1.9.2020) by virtue of The Education (National Curriculum Assessment Arrangements, Attainment Targets and Programmes of Study) and (Pupil Information and School Performance Information) (Amendment) (England) Regulations 2020 (S.I. 2020/844), regs. 1(2), **4(5)(b)(i)**
- F30** Word in art. 5A(2) inserted (1.9.2023) by The Education (National Curriculum) (Key Stage 1 Assessment Arrangements) (England) (Amendment) Order 2023 (S.I. 2023/375), arts. 1, **9(a)** (with art. 13)
- F31** Word in art. 5A(2)(b) omitted (1.9.2023) by virtue of The Education (National Curriculum) (Key Stage 1 Assessment Arrangements) (England) (Amendment) Order 2023 (S.I. 2023/375), arts. 1, **9(b)** (with art. 13)
- F32** Art. 5A(2)(bb) omitted (1.9.2023) by virtue of The Education (National Curriculum) (Key Stage 1 Assessment Arrangements) (England) (Amendment) Order 2023 (S.I. 2023/375), arts. 1, **9(c)** (with art. 13)
- F33** Art. 5A(2)(c) revoked (20.4.2021) by The Education (National Curriculum) (Key Stages 1 and 2 Assessment Arrangements) (England) (Coronavirus) (Amendment) Order 2021 (S.I. 2021/479), arts. 1(2), **3(5)**

**Moderation of Assessments**

<sup>F34</sup>6. ....

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**Textual Amendments**

**F34** Art. 6 revoked (1.9.2023) by The Education (National Curriculum) (Key Stage 1 Assessment Arrangements) (England) (Amendment) Order 2023 (S.I. 2023/375), arts. 1, **10** (with art. 13)

**[<sup>F35</sup>Monitoring of assessments under article 5A**

**6A.**—<sup>F36</sup>(A1) .....

(1) In any school year a local authority must carry out the functions imposed on it by this article in relation to at least 10% of the schools it maintains at which an assessment under article 5A is being administered in that school year (“monitored schools”).

(2) The local authority must visit monitored schools for the purpose of monitoring the extent to which the assessment is being carried out in accordance with the provisions of article 5A and any delegated supplementary provisions relating to an assessment under that article.

(3) A visit to a monitored school by the local authority for the purposes of this article may take place at one of the following times—

- (a) the week before an assessment under article 5A is to be administered;
- (b) the period during which an assessment under article 5A is to be administered;
- (c) the five school days following the last day on which an assessment under article 5A may be administered.

(4) In any school year the monitoring authority must make visits of each of the kinds of visit referred to in paragraph (3)(a) and (b).

(5) The local authority must discuss the outcome of its monitoring visits to a school with the head teacher of the school.

(6) If as a result of a visit carried out in accordance with this article it appears to the local authority that an assessment under article 5A has not been administered in accordance with the provisions of that article or under article 9 it must—

- (a) bring the matter to the attention of the head teacher; and
- (b) report the matter to the Secretary of State.

(7) The head teacher and the governing body must—

- (a) permit the local authority to enter the premises of the school at any reasonable time in order to observe the implementation of the arrangements for assessment under article 5A;
- (b) permit the local authority to inspect and take copies of documents relating to that assessment;
- (c) provide the local authority with such information relating to that assessment as the local authority reasonably requests.]

**Textual Amendments**

- F35** Art. 6A inserted (21.12.2011) by [The Education \(National Curriculum\) \(Key Stage 1 Assessment Arrangements\) \(England\) \(Amendment\) Order 2011 \(S.I. 2011/3057\)](#), arts. 1, **6**
- F36** Art. 6A(A1) omitted (1.9.2023) by virtue of [The Education \(National Curriculum\) \(Key Stage 1 Assessment Arrangements\) \(England\) \(Amendment\) Order 2023 \(S.I. 2023/375\)](#), arts. 1, **11** (with art. 13)

**[<sup>F37</sup> 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.]

**Textual Amendments**

- F37** Art. 6B inserted (20.6.2013) by [The Education \(National Curriculum\) \(Key Stages 1 and 2 Assessment Arrangements\) \(England\) \(Amendment\) Order 2013 \(S.I. 2013/1513\)](#), arts. 1, **3(6)**

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

**<sup>F38</sup>7.** .....

**Textual Amendments**

- F38** Art. 7 omitted (1.9.2015) by virtue of [The Education \(National Curriculum\) \(Miscellaneous Amendments\) \(England\) Order 2015 \(S.I. 2015/900\)](#), arts. 1, **9**

**Evaluation of Assessment Arrangements**

**<sup>F39</sup>8.** .....

**Textual Amendments**

**F39** Art. 8 omitted (1.4.2012) by virtue of [The Education Act 2011 \(Consequential Amendments to Subordinate Legislation\) Order 2012 \(S.I. 2012/765\)](#), arts. 1, 7

**[<sup>F40</sup> Delegated supplementary provisions**

9.—(1) The Secretary of State may make delegated supplementary provisions in relation to—

- <sup>F41</sup>(a) . . . . .
- <sup>F42</sup>(b) a trial under article 4A and the time when, and manner in which, such a trial is to be administered;
- (c) the circumstances in which the head teacher may decide a pupil should not be assessed under article 4A and 5A;
- (d) an assessment under article 5A and the time when, and manner in which, such an assessment is to be administered; and
- (e) provisions designating schools for the purposes of article 4A.]

(2) Before making, amending or revoking any delegated supplementary provisions the Secretary of State—

- (a) must consult the Office of Qualifications and Examinations Regulation; and
- (b) may consult such other persons as the Secretary of State considers appropriate.

(3) Any delegated supplementary provisions must be published by the Secretary of State [<sup>F43</sup>on a website maintained by the Secretary of State].]

**Textual Amendments**

**F40** Art. 9 substituted (21.12.2011) by [The Education \(National Curriculum\) \(Key Stage 1 Assessment Arrangements\) \(England\) \(Amendment\) Order 2011 \(S.I. 2011/3057\)](#), arts. 1, 7

**F41** Art. 9(1)(a) omitted (1.9.2023) by virtue of [The Education \(National Curriculum\) \(Key Stage 1 Assessment Arrangements\) \(England\) \(Amendment\) Order 2023 \(S.I. 2023/375\)](#), arts. 1, **12(a)** (with art. 13)

**F42** Art. 9(1)(b)-(e) substituted for art. 9(1)(b)(c) (1.9.2015) by [The Education \(National Curriculum\) \(Miscellaneous Amendments\) \(England\) Order 2015 \(S.I. 2015/900\)](#), arts. 1, **10**

**F43** Words in art. 9(3) inserted (1.9.2023) by [The Education \(National Curriculum\) \(Key Stage 1 Assessment Arrangements\) \(England\) \(Amendment\) Order 2023 \(S.I. 2023/375\)](#), arts. 1, **12(b)** (with art. 13)

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



## 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.

**Changes to legislation:**

There are currently no known outstanding effects for the The Education (National Curriculum) (Key Stage 1 Assessment Arrangements) (England) Order 2004.