

---

STATUTORY INSTRUMENTS

---

**2004 No. 2858**

**EDUCATION, ENGLAND**

**The Education (School Performance Targets) (England) Regulations 2004**

*Made* - - - - *1st November 2004*  
*Laid before Parliament* *9th November 2004*  
*Coming into force* - - *30th November 2004*

In exercise of the powers conferred upon the Secretary of State by sections 19 and 54(3) of the Education Act 1997<sup>(1)</sup>, the Secretary of State for Education and Skills hereby makes the following Regulations:

**Citation, commencement and application**

1.—(1) These Regulations may be cited as the Education (School Performance Targets) (England) Regulations 2004 and shall come into force on 30th November 2004.

(2) These Regulations apply only in relation to schools in England.

**Interpretation**

2. In these Regulations—

“the 1997 Act” means the Education Act 1997;

“the 2000 Act” means the Learning and Skills Act 2000<sup>(2)</sup>;

“the 2002 Act” means the Education Act 2002<sup>(3)</sup>;

“approved qualification” means an external qualification at entry level, level 1 or level 2 or a GCE AS level, which is approved under section 98 of the 2000 Act for the purposes of section 96 of the 2000 Act and which is appropriate for pupils of compulsory school age;

“designated school” means a school to which—

(a) regulation 3 or regulation 4 applies; and

(b) there are normally admitted pupils who are in the final year of the second key stage or the final year of the third key stage;

---

<sup>(1)</sup> 1997 c. 44. Section 19 was amended by section 140(1) of the School Standards & Framework Act 1998 (c. 31).

<sup>(2)</sup> 2000 c. 21.

<sup>(3)</sup> 2002 c. 32.

“GCE AS level” means General Certificate of Education Advanced Subsidiary Level;

“entry level” means entry level as set out in the National Qualifications Framework and determined by the Qualifications and Curriculum Authority;

“level 1” means level 1 as set out in the National Qualifications Framework and determined by the Qualifications and Curriculum Authority;

“level 2” means level 2 as set out in the National Qualifications Framework and determined by the Qualifications and Curriculum Authority;

“level 4” means level 4 of the National Curriculum level scale as determined by the results of NC tests;

“level 5” means level 5 of the National Curriculum level scale as determined by the results of NC tests or, where regulation 4(3)(d) or regulation 9(7)(b)(iv) applies, by teacher assessment;

“NC tests” means National Curriculum tests administered to second key stage pupils for the purpose of assessing the level of attainment which they have achieved in English or mathematics or to third key stage pupils for the purpose of assessing the level of attainment which they have achieved in English, mathematics, science or information and communication technology, being tests laid down in provisions made by the Secretary of State under the appropriate order made under section 87(3) of the 2002 Act in force when those tests are administered;

“performance targets”, in relation to a school, means the targets which a governing body is required to set by virtue of regulation 3, 4, 5 or 6, or any combination thereof;

“pupils' attainment results” has the meaning specified in regulation 9(7) or, as the case may be, 9(8);

“relevant school year” means the school year in which the targets are set;

“reporting school year” means the school year to which the school’s annual report relates;

“school” means a maintained school within the meaning of section 19(3) of the 1997 Act<sup>(4)</sup>;

“school’s annual report”, in relation to a school, means the report which the governing body is required to prepare for every school year under section 30 of the 2002 Act;

“second key stage pupils” means pupils who are in the second key stage referred to in section 82(1)(b) of the 2002 Act;

“teacher assessment” means assessment by a teacher, made in accordance with the Education (National Curriculum) (Key Stage 3 Assessment Arrangements) (England) Order 2003<sup>(5)</sup>;

“third key stage pupils” means pupils who are in the third key stage referred to in section 82(1)(c) of the 2002 Act.

### **Targets for pupils in the second key stage**

**3.—(1)** This regulation applies to every school where education is provided which is suitable to the requirements of pupils in the final year of the second key stage.

(2) Subject to paragraph (5), the governing body of a school to which this regulation applies shall, by no later than 31st December in every school year, set the targets specified in paragraph (3) in connection with the performance of the relevant group of second key stage pupils in NC tests to be administered at or near the end of the following school year.

(3) The targets referred to in paragraph (2) are—

---

<sup>(4)</sup> Sub-section (3) was substituted by section 140(1) of the School Standards and Framework Act 1998 (c. 31).

<sup>(5)</sup> S.I.2003/1039.

- (a) the percentage of the relevant group of second key stage pupils to achieve level 4 or above in such tests in English; and
- (b) the percentage of the relevant group of second key stage pupils to achieve level 4 or above in such tests in mathematics.

(4) In this regulation and in regulation 9(2)(a) “the relevant group of second key stage pupils”, in relation to—

- (a) a school, and
- (b) any school year during which the governing body has a duty to set the targets specified in paragraph (3),

means all persons who, in the following school year, the governing body anticipates will be—

- (i) registered pupils, and
- (ii) in the final year of the second key stage.

(5) In relation to a designated school, paragraphs (2) and (4) shall have effect with the following modifications—

- (a) paragraph (2) shall have effect as if—
  - (i) for “by no later than 31<sup>st</sup> December in every school year” there were substituted “as soon after the beginning of every school year as is reasonably practical”, and
  - (ii) for “the following school year” there were substituted “that school year”, and
- (b) paragraph (4) shall have effect as if for “, in the following school year, the governing body anticipates will be”, there were substituted “are”.

### **Targets for pupils in the third key stage**

4.—(1) This regulation applies to every school where education is provided which is suitable to the requirements of pupils in the final year of the third key stage.

(2) Subject to paragraph (5), the governing body of a school to which this regulation applies shall by no later than 31<sup>st</sup> December in every school year set the targets specified in paragraph (3).

(3) The targets referred to in paragraph (2) are—

- (a) the percentage of the relevant group of third key stage pupils to achieve level 5 or above in NC tests in English;
- (b) the percentage of the relevant group of third key stage pupils to achieve level 5 or above in NC tests in mathematics;
- (c) the percentage of the relevant group of third key stage pupils to achieve level 5 or above in NC tests in science; and
- (d) the percentage of the relevant group of third key stage pupils to achieve level 5 or above in teacher assessments of information and communication technology.

(4) In this regulation and regulation 9(3)(a) “the relevant group of third key stage pupils”, in relation to—

- (a) a school, and
- (b) any school year during which the governing body has a duty to set the targets specified in paragraph (3),

means all persons who, in the following school year, the governing body anticipates will be—

- (i) registered pupils, and
- (ii) in the final year of the third key stage.

(5) In relation to a designated school, paragraphs (2) and (4) shall have effect with the following modifications—

- (a) paragraph (2) shall have effect as if—
  - (i) for “by no later than 31st December in every school year” there were substituted “as soon after the beginning of every school year as is reasonably practicable”, and
  - (ii) for “the following school year” there were substituted “that school year”; and
- (b) paragraph (4) shall have effect as if for “, in the following school year, the governing body anticipates will be”, there were substituted “are”.

### **Targets for pupils aged 15**

5.—(1) This regulation applies to every school where education is provided which is suitable to the requirements of pupils who have attained the age of 15.

(2) The governing body of a school to which this regulation applies shall, by no later than 31st December in every school year, set the targets specified in paragraph (3) in connection with the performance of the relevant group of pupils aged 15 in approved qualifications.

(3) The targets referred to in paragraph (2) are—

- (a) the percentage of the relevant group of pupils aged 15 to achieve, by the end of the following school year, the level 2 threshold in approved qualifications;
- (b) the average point score per pupil to be achieved by the relevant group of pupils aged 15 by the end of the following school year in approved qualifications.

(4) For the purposes of this regulation and regulation 6, questions as to the points allocated to each approved qualification award for the purposes of calculating the average point score shall be determined in accordance with the database of accredited qualifications as published by the Qualifications and Curriculum Authority<sup>(6)</sup>.

(5) In this regulation and regulation 9(5)(a), “the relevant group of pupils aged 15”, in relation to—

- (a) a school, and
- (b) any school year during which the governing body has a duty to set the targets specified in paragraph (3),

means all persons who, in the following school year, the governing body anticipates—

- (i) will be registered pupils at the school on the third Thursday in January, and
- (ii) will have attained the age of 15 during the period of twelve months ending on the 31<sup>st</sup> August immediately preceding that day.

(6) For the purposes of this regulation and regulation 9(7)(c), a pupil achieves an approved qualification in the school year in which he completes the course or takes the examination leading to the award of the qualification irrespective of whether the decision to award the qualification is made in a later school year.

### **Targets for groups of pupils with special educational needs**

6.—(1) This regulation applies where a target set by the governing body for a group of pupils under regulation 3, 4 or 5(3)(a) is zero.

---

<sup>(6)</sup> The Qualifications and Curriculum Authority was established under section 21 of the Education Act 1997 (c. 44). The database is accessible on the Authority’s website at [www.openquals.org.uk](http://www.openquals.org.uk)

(2) Where this regulation applies the governing body shall set additional appropriate targets for the performance of that group of pupils in appropriate public examinations or in appropriate assessments for the purposes of the National Curriculum.

### **Prohibition of revision of performance targets**

7.—(1) Subject to paragraphs (2) and (3), a performance target may not be modified after it has been set.

(2) The governing body of a school to which regulation 4 applies may amend the targets it has set for the school year 2004–2005 pursuant to regulations then in force when it sets targets pursuant to regulation 4 of these Regulations for the school year 2005–2006.

(3) The governing body of a school to which regulation 5 applies may amend the targets it has set for the school year 2004–2005 pursuant to regulations then in force—

- (a) to include reference to approved qualifications not previously taken into account, in accordance with regulation 5 of these Regulations; and
- (b) when it sets targets for the school year 2005–2006.

### **Provision of information on performance targets to LEAs**

8. The governing body of a school to which regulation 3, 4, 5 or 6 applies shall provide to its local education authority details of the targets set pursuant to regulations 3, 4, 5, 6 and 7 as soon as practicable after they are set and by no later than 15 January in the relevant school year.

### **Publication of performance information**

9.—(1) Subject to paragraphs (2) to (4), the governing body of every school to which regulation 3, 4, 5 or 6 applies shall publish in the school's annual report for every school year the information about—

- (a) performance targets, and
- (b) pupils' attainment results,

specified in Schedule 1.

(2) In relation to a school to which regulation 3 applies, paragraph (1) shall not require—

- (a) the publication of information about performance targets in relation to any school year where, at the time when the governing body's duty to set such targets for that year arose, the relevant group of second key stage pupils (as defined in regulation 3) consisted of ten or fewer persons; or
- (b) the publication of any information about pupils' attainment results in relation to any school year where the total number of persons who, in that year, were—
  - (i) registered pupils, and
  - (ii) at or near the end of the final year of the second key stage, did not exceed ten.

(3) In relation to a school to which regulation 4 applies, paragraph (1) shall not require—

- (a) the publication of information about performance targets in relation to any school year where, at the time when the governing body's duty to set such targets for that year arose, the relevant group of third key stage pupils (as defined in regulation 4) consisted of ten or fewer persons; or
- (b) the publication of any information about pupils' attainment results in relation to any school year where the total number of persons who, in that year, were—

- (i) registered pupils, and
  - (ii) at or near the end of final year of the third key stage,
- did not exceed ten.
- (4) Paragraph (1) shall not require the governing body to publish information relating to any amendments to performance targets made for the school year 2004-2005 under regulation 7(2).
- (5) In relation to a school to which regulation 5 applies, paragraph (1) shall not require—
- (a) the publication of information about performance targets in relation to any school year where, at the time when the governing body’s duty to set such targets for that year arose, the relevant group of pupils aged 15 (as defined in regulation 5) consisted of ten or fewer persons; or
  - (b) the publication of any information about pupils' attainment results in relation to any school year in which the total number of pupils aged 15 did not exceed ten.
- (6) Paragraph (1) shall not require the governing body to publish information relating to any amendments to performance targets made for the school year 2004-2005 under regulation 7(3).
- (7) “Pupils' attainment results”, in relation to any school year, means, subject to paragraph (8)—
- (a) in relation to a school to which regulation 3 applies—
    - (i) the percentage of registered pupils at or near the end of the final year of the second key stage who achieved level 4 or above in NC tests in English; and
    - (ii) the percentage of registered pupils at or near the end of the final year of the second key stage who achieved level 4 or above in NC tests in mathematics; and
  - (b) in relation to a school to which regulation 4 applies—
    - (i) the percentage of registered pupils at or near the end of the final year of the third key stage who achieved level 5 or above in NC tests in English;
    - (ii) the percentage of registered pupils at or near the end of the final year of the third key stage who achieved level 5 or above in NC tests in mathematics;
    - (iii) the percentage of registered pupils at or near the end of the final year of the third key stage who achieved level 5 or above in NC tests in science; and
    - (iv) the percentage of registered pupils at or near the end of the final year of the third key stage who achieved level 5 or above in teacher assessments of information and communication technology; and
  - (c) in relation to a school to which regulation 5 applies—
    - (i) the percentage of pupils aged 15 who achieved the level 2 threshold in approved qualifications;
    - (ii) the average point score per pupil achieved by the relevant group of pupils aged 15 in approved qualifications,by the end of that year.
- (8) Where regulation 6 applies, “pupils' attainment results” in relation to any school year means the pupils' results in relation to the targets set under that regulation.
- (9) For the purposes of this regulation, questions as to the points allocated to each approved qualification award for the purposes of calculating the average point score shall be determined in accordance with the database of accredited qualifications as published by the Qualifications and Curriculum Authority.
- (10) In paragraphs (5)(b) and (7)(c), “pupils aged 15”, in relation to a school and any school year, means persons who—

- (a) are registered pupils at the school on the third Thursday in January, and
- (b) attained the age of 15 during the period of twelve months ending on the 31st August immediately preceding that day.

**Revocation**

**10.** The Regulations listed in the first column of Schedule 2 are revoked to the extent stated in the third column.

1st November 2004

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

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

## SCHEDULE 1

Regulation 9

## INFORMATION ABOUT TARGETS TO BE PUBLISHED IN ANNUAL REPORTS

1. Where a school's annual report in relation to the reporting school year is published in the course of that year, the school's annual report in relation to the reporting school year shall contain the following information—

- (a) pupils' attainment results in each of the two school years immediately preceding the reporting school year; and
- (b) the performance targets set for—
  - (i) the two school years immediately preceding the reporting school year,
  - (ii) the reporting school year, and
  - (iii) the school year immediately following the reporting school year.

2. Where a school's annual report in relation to the reporting school year is published after the end of that year, the school's annual report in relation to the reporting school year shall contain the following information—

- (a) pupils' attainment results in the reporting school year and in each of the two school years immediately preceding that year; and
- (b) the performance targets determined for—
  - (i) the two school years immediately preceding the reporting school year,
  - (ii) the reporting school year, and
  - (iii) the school year immediately following the reporting school year.

3. In relation to a designated school, paragraphs 1 and 2 shall each have effect as if there were omitted sub-paragraph (b)(iii).

4. Where no performance target has been set in relation to—

- (a) either or both of the two school years immediately preceding the reporting school year under paragraph 1(b)(i) or paragraph 2(b)(i); or
- (b) the reporting school year under paragraph 1(b)(ii),

the school's annual report shall state that fact.

## SCHEDULE 2

Regulation 10

## REVOCATION

<i>Regulations</i>	<i>Instrument Number</i>	<i>Extent of Revocation</i>
The Education (School Performance Targets) (England) Regulations 1998	S.I. <a href="#">1998/1532</a>	The whole Regulations
The Education (Transition to New Framework) (Miscellaneous Provisions) Regulations 1999	S.I. <a href="#">1999/2267</a>	Regulation 6
The Education (School Performance Targets)	S.I. <a href="#">2001/827</a>	The whole Regulations



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

<i>Regulations</i>	<i>Instrument Number</i>	<i>Extent of Revocation</i>
(England) (Amendment) Regulations 2001		
The Education (School Performance Targets) (England) (Amendment) (No. 2) Regulations 2001	S.I. <a href="#">2001/2944</a>	The whole Regulations
The Education (School Performance Targets) (England) Amendment) Regulations 2002	S.I. <a href="#">2002/840</a>	The whole Regulations
The Education (School Performance Targets) (England) (Amendment) (No. 2) Regulations 2002	S.I. <a href="#">2002/2105</a>	The whole Regulations
The Education (School Performance Targets) (Amendment) (England) Regulations 2003	S.I. <a href="#">2003/1970</a>	The whole Regulations

## EXPLANATORY NOTE

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

These Regulations revoke and re-enact with modifications the Education (School Performance Targets) (England) Regulations 1998. Amending Instruments are also revoked.

The Regulations require schools to set targets in relation to pupils' achievements in the final years of key stages 2 and 3 and, for pupils over the age of 15, to set targets in relation to GCSE and other external qualifications approved by the Qualifications and Curriculum Authority.

The principal changes made are to allow schools to include external qualifications approved by the Qualifications and Curriculum Authority when setting targets for pupils aged 15 and over and to include a requirement for schools to report their targets to local education authorities.