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STATUTORY INSTRUMENTS

2010 No. 290

EDUCATION, ENGLAND

The Education (National Curriculum) (Key Stage 2 Assessment Arrangements) (England) (Amendment) Order 2010

Made - - - -	*9th February 2010*
Coming into force - -	*10th February 2010*

The Secretary of State for Children, Schools and Families makes the following Order in exercise of the powers conferred by sections 87(3)(c), (7), (9), (10) and (11) and 210(7) of the Education Act 2002(**a**).

Citation and commencement

1. This Order may be cited as the Education (National Curriculum) (Key Stage 2 Assessment Arrangements) (England) (Amendment) Order 2010 and comes into force on 10th February 2010.

Amendment of the Education (National Curriculum) (Key Stage 2 Assessment Arrangements) (England) Order 2003

2. The Education (National Curriculum) (Key Stage 2 Assessment Arrangements) (England) Order 2003(**b**) is amended as follows.

3. In article 3(1) (interpretation)—

(a) for the definition of "record of the results" 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;

(b) for the purposes of article 5A, means a record of the result of a pupil in respect of a single level test, consisting of a statement of whether or not the pupil has achieved the relevant level of attainment;

(c) for the purposes of article 7—

(i) in so far as it relates to NC tests, means a record of the results of a pupil in respect of any of the NC tests administered to the pupil under article 5, and

(**a**) 2002 c. 32; section 87 was amended by the Childcare Act 2006, Schedule 1, paragraph 10 (c. 21). Amendments have also been made to section 87 by the Apprenticeships, Skills, Children and Learning Act 2009 (c. 22), Schedule 12, paragraph 35, but the amendments were not in force on the date on which this Order was made.

(**b**) S.I. 2003/1038, amended by S.I. 2009/1585.

(ii) in so far as it relates to a single level test, has the meaning given in sub-paragraph (b);";

(b) before the definition of "specified" insert—

""single level test" has the meaning given by article 5A(11);"; and

(c) after the definition of "summer term" insert—

""year 6 single level test" has the meaning given in article 6A(1)".

4. In article 5 (NC test assessment)—

(a) in paragraph (1), for "paragraph (3)" substitute "this article";

(b) in paragraph (2), after "paragraph (3)" insert "or (4A)";

(c) in paragraph (2A), for the words from "exempted" to the end of the paragraph substitute "designated for the purposes of article 5A";

(d) in paragraph (3), for "a core subject" substitute "English or mathematics";

(e) after paragraph (4) insert—

"(4A) Where this article applies to a pupil in respect of science the head teacher must—

(a) make arrangements for a NC test to be administered to the pupil in that subject in accordance with any arrangements for such a test made under article 11(1)(a) and (b);

(b) ensure that as soon as reasonably practicable the pupil's responses to the test are provided to the Authority to be marked; and

(c) as soon as reasonably practicable after the pupil's responses to the test have been provided to the Authority in accordance with sub-paragraph (b), provide the Authority with a statement, signed by the head teacher, confirming that the NC test was administered in accordance with any arrangements for such a test made under article 11(1)(a) and (b).";

(f) in paragraph (5) after "NC tests" insert "administered under paragraph (3)"; and

(g) omit paragraph (6).

5. After article 5 insert—

"**Single level tests in mathematics**

5A.—(1) This article applies only to schools which have been designated for the purposes of this article.

(2) Subject to paragraphs (5) and (6), the head teacher must as far as is reasonably practicable ensure that a single level test is administered to each pupil in the final school year of the second key stage(**a**).

(3) Subject to paragraph (5), the head teacher may arrange for a single level test to be administered to a pupil in the second key stage other than in accordance with paragraph (2).

(4) Any test administered in accordance with paragraph (2) or (3) must be administered in accordance with any arrangements for single level tests made under article 11(1)(d) and (e).

(5) A single level test must not be administered to a pupil unless the head teacher considers that the pupil has reached at least level 3 in relation to the ATs for mathematics in the second key stage.

(6) The head teacher is not required to ensure that a single level test is administered to a pupil in accordance with paragraph (2) if the circumstances set out in paragraph (7) apply in relation to the pupil.

(7) The circumstances are that—

(**a**) For the meaning of the term "the second key stage" see section 82(1)(b) of the Education Act 2002.

(a) a single level test was administered to the pupil in the school year immediately before the final school year of the second key stage,

(b) the pupil passed the test, and

(c) either—

(i) the head teacher does not consider that the pupil has reached a level of attainment above that assessed by the test, or

(ii) the test referred to in sub-paragraphs (a) and (b) was for the purpose of assessing whether the pupil had reached level 6 in relation to the ATs for mathematics in the second key stage.

(8) Where a pupil has completed a single level test under this article, the head teacher must ensure that as soon as reasonably practicable the pupil's responses to the test are provided to the Authority to be marked.

(9) As soon as reasonably practicable after the pupil's responses to a single level test have been provided to the Authority in accordance with paragraph (8), the head teacher must provide the Authority with a statement confirming that the test was administered in accordance with any arrangements for single level tests made under article 11(1)(d) and (e).

(10) Once a single level test has been marked, the Authority must provide the head teacher with a record of the result.

(11) In this Order, a reference to a single level test is to a test—

(a) set by the Authority, and

(b) whose purpose is to determine whether a pupil has reached a specified level of attainment in relation to the ATs for mathematics in the second key stage.".

6. After article 6 (monitoring of assessment arrangements) insert—

"**Monitoring of assessment arrangements in relation to single level tests**

6A.—(1) This article makes provision for monitoring the administration of single level tests to pupils in the final year of the second key stage (referred to as a "year 6 single level test").

(2) The local education authority which maintains any school designated for the purposes of article 5A is the monitoring authority for the school, and in this article such a school is referred to as a relevant school.

(3) The monitoring authority must visit at least 5 relevant schools during any test cycle—

(a) for the purpose of monitoring whether the arrangements for administering year 6 single level tests adopted by the school comply with the provisions for such arrangements made under article 11; and

(b) in relation to any visit which takes place on the day on which a year 6 single level test is administered, for the purpose of monitoring whether a pupil's written responses to a year 6 single level test represents the pupil's own work.

(4) Any visit to a relevant school by the monitoring authority for the purposes of this article must take place at one of the following times—

(a) on the day before a single level test is administered;

(b) on the day on which a test is administered;

(c) on the day after a test is administered.

(5) The monitoring authority must make at least one of each of the kinds of visit referred to in paragraph (4)(a) to (c) during any test cycle.

(6) Paragraph (7) applies where, as a result of a visit carried out in accordance with this article, it appears to the monitoring authority that—

(a) any arrangements in connection with administering a year 6 single level test ("the test arrangements") do not comply with any requirements imposed under article 11, or

(b) a pupil's written responses to such a test does not represent the pupil's own work.

(7) The monitoring authority must—

(a) bring the matter referred to in paragraph (6) to the attention of the head teacher; and

(b) report the matter to the Authority.

(8) The head teacher and the governing body of a school must—

(a) permit the monitoring authority to enter the premises of the school at all reasonable times in order to observe the implementation of the test arrangements;

(b) permit the monitoring authority to inspect and take copies of documents and other articles relating to the test arrangements;

(c) provide the monitoring authority with such information relating to test arrangements as they may reasonably request.

(9) In this article a reference to a test cycle is to a period identified in arrangements under article 11 as being a period during which single level tests are to be administered to pupils."

7. In article 7 (investigation by the Authority and correction of record of results)—

(a) in paragraph (1)—

(i) after "article 6(7)" insert "or 6A(7)", and

(ii) at the end of the paragraph insert "or a year 6 single level test administered under article 5A";

(b) in paragraph (2)—

(i) for "an investigation" substitute "a relevant investigation",

(ii) for the words from "before" to "article 5(5)" substitute "before the record of the results has been provided to the head teacher under article 5(5) or 5A(10)",

(iii) after "article 5" insert "or 5A", and

(iv) omit "by that agency";

(c) after paragraph (2) insert—

"(2A) In paragraph (2) the reference to a relevant investigation under paragraph (1) is to an investigation under that paragraph which concerns—

(a) the record of the result of a pupil in respect of NC tests administered under paragraph 5(3), or

(b) the record of the result of a pupil who has taken a year 6 single level test.";

(d) in paragraph (3) after "paragraph (1)" insert "about the record of results of any pupil in respect of NC tests administered under article 5(3) and after"; and

(e) after paragraph (3) insert—

"(4) Paragraph (5) applies where an investigation under paragraph (1)—

(a) concerns the record of the result of a pupil who has taken a year 6 single level test, and

(b) takes place after the record of the result has been provided by the Authority to the head teacher of the school.

(5) Where the Authority determines that the record of the result is inaccurate or otherwise incorrect, the Authority must revise the record of the result accordingly and provide the head teacher with the revised record of the result.

(6) Where—

(a) an investigation under paragraph (1) concerns the record of the result of a pupil who has taken NC tests administered under article 5(4A), and

(b) the Authority determines that the record of the result is inaccurate or otherwise incorrect,

the Authority must revise the record of the result accordingly.".

8. In article 11(1) (supplementary powers of the Secretary of State)—

(a) in sub-paragraph (c), omit "exempting or"; and

(b) after sub-paragraph (c) insert—

"(d) provisions as to the setting and administration of single level tests;

(e) provisions as to the time when and the manner in which single level tests are to be administered;

(f) provisions as to designating schools for the purposes of article 5A.".

Vernon Coaker
Minister of State
Department for Children, Schools and Families

9th February 2010

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 ("the 2003 Order") to make provision in relation to tests in science at schools designated for the purposes of article 5 of the 2003 Order and for single level tests in mathematics to pupils at schools designated for the purposes article 5A of that Order (inserted by this Order).

Article 4 of the Order makes amendments to article 5 of the 2003 Order (which relates to NC tests as defined in article 3(1) of that Order). The insertion of paragraph (4A) requires the head teacher of a school which has been designated for the purposes of article 5 to arrange for national curriculum tests in science to be administered to pupils who, in the head teacher's opinion, have reached a level of attainment of at least level 3. The pupils' responses to the tests are to be marked by the Qualifications and Curriculum Authority. The results of the tests will not be provided to the head teacher. The remaining amendments to article 5 of the 2003 Order are consequential on new paragraph (4A) in that article or the insertion of article 5A of the Order.

Article 5 of the Order inserts a new article 5A into the 2003 Order requiring the head teacher at designated schools to arrange for single level tests (as defined in paragraph (11) of that article) to be administered to pupils in the final year of the second key stage. This duty applies to all pupils except those falling within paragraph (5) or (6). Article 5A also provides generally for the head teacher to have the power to administer single level tests to pupils in the second key stage other than those falling with paragraph (5). Any tests carried out under article 5A must comply with any provisions made under article 11 of the 2003 Order. Article 5A also provides for single level tests to be marked by the Qualifications and Curriculum Authority with the record of the result being provided to the head teacher.

Article 6 of the Order inserts a new article 6A into the 2003 Order. Article 6A provides for the monitoring of the administering of year 6 single level tests (within the meaning of article 6A(1)) by the local education authorities which maintain the designated schools. Article 7 of the Order amends article 7 of the 2003 Order. Article 7 of the 2003 Order provides for the investigation by the Qualifications and Curriculum Authority of the accuracy or correctness of any results of any pupil in respect of NC tests administered under article 5 of the 2003 Order. The amendments extend the scope of article 7 so it also applies to year 6 single level tests and make provision in relation to NC test results in science (which are not provided to the head teacher). Article 8 amends article 11 of the 2003 Order which provides for the making by the Secretary of State of provisions supplementing or giving full effect to provisions made by the 2003 Order. The amendments expressly extend the scope of supplementary provisions under article 11 to include provisions as to the setting and administration of single level tests, as to the time when and the manner in which single level tests are to be administered, and as to designating schools for the purposes of article 5A.

A full impact assessment has not been produced for this Order as no impact on the private or voluntary sectors is foreseen.

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