STATUTORY INSTRUMENTS

# 2008 No. 3086

# EDUCATION, ENGLAND

## The Education (School and Local Education Authority Performance Targets) (England) (Amendment) Regulations 2008

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| *Made - - - -* | *1st December 2008* |
| *Laid before Parliament* | *8th December 2008* |
| *Coming into force - -* | *31st December 2008* |

The Secretary of State for Children, Schools and Families makes the following Regulations in exercise of the powers conferred by sections 19 and 54(3) of the Education Act 1997(**a**) and sections 102 and 120 of the Education Act 2005(**b**).

**Citation, commencement and application**

**1.**—(1) These Regulations may be cited as the Education (School and Local Education Authority Performance Targets) (England) (Amendment) Regulations and come into force on 31st December 2008.

(2) These Regulations apply in relation to England.

**Amendment of the Education (School Performance Targets) (England) Regulations 2004**

**2.**—(1) The Education (School Performance Targets) (England) Regulations 2004(**c**) are amended in accordance with the following provisions of this regulation.

(2) In regulation 2—

(a) in the definition of "designated school"—

(i) in paragraph (a), omit "or regulation 4"; and

(ii) in paragraph (b), omit the words "or the final year of the third key stage";

(b) in the definition of "performance targets", for "regulation 3, 4, 5 or 6" substitute "regulation 3, 5 or 6";

(c) in the definition of "NC tests", omit "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"; and

(d) omit the definition of "third key stage pupils".

(3) Omit regulation 4.

(4) In regulation 5—

(**a**) 1997 c. 44. Subsection (3) was substituted by the School Standards and Framework Act 1998 (c. 31), section 140(1) and Schedule 30, paragraph 213.

(**b**) 2005 c. 18; for the meaning of "prescribed" and "regulations", section 122(2) and (3)(c) applies to section 102 the definitions in section 579(1) of the Education Act 1996 c. 56.

(**c**) S.I. 2004/2858 as amended by S.I. 2004/3323, S.I. 2005/2449 and S.I. 2007/2975.

(a) in each of paragraphs (2) and (5), for "targets", substitute "target"; and

(b) for sub-paragraph (3), substitute—

"(3) The target referred to in paragraph (2) is the percentage of the relevant group of fourth key stage pupils to achieve the level 2 threshold in approved qualifications including grades A*-C in English and Mathematics GCSE qualifications."

(5) In regulations 6 and 8, omit "4" in each place in which it occurs.

**Amendment of the Education (Local Education Authority Performance Targets) (England) Regulations 2005**

**3.** The Education (Local Education Authority Performance Targets) (England) Regulations 2005(**a**) are amended as follows.

**4.** In regulation 2(1)—

(a) before the definition of "fourth key stage" insert—

""ethnic group" has the meaning given in paragraph 10 of the Schedule;";

(b) before the definition of "second key stage pupils" insert—

""pupils receiving free school meals" means pupils eligible to receive school meals free of charge by virtue of section 512ZB of the Education Act 1996(**b**);";

(c) insert "and" at the end of the definition of "second key stage pupils" and omit "and" at the end of the definition of "statistical reporting period"

(d) omit the definition of "third key stage pupils".

**5.** Omit paragraph 2 of the Schedule.

**6.** For paragraph 3(1) of the Schedule, substitute the following—

"(1) In connection with the performance of the relevant group of fourth key stage pupils in approved qualifications, a target for the percentage of the relevant group of fourth key stage pupils to achieve the level 2 threshold in approved qualifications including grades A*-C in English and Mathematics GCSE qualifications."

**7.** For paragraph 4 of the Schedule, substitute the following—

**"Targets for pupil groups**

**4.** For each of the targets in paragraphs 1 and 3 above, a target in respect of each of the following ethnic groups or combination of ethnic groups for which there are 30 or more pupils in the ethnic group or combination of groups within the relevant group (as defined in each paragraph) in the local education authority's maintained schools—

Black: Caribbean

Mixed: White and Black Caribbean

Black: African, and Mixed: White and Black African

Any other Black background

Asian: Pakistani

Any other White background.

**4A.** For each of the targets in paragraphs 1 and 3 above, a target in respect of pupils receiving free school meals where there are 30 or more pupils receiving free school meals

(**a**) S.I. 2005/2450 as amended by S.I. 2006/3150 and 2007/2972.
(**b**) 1996 c. 56. Section 512ZB was inserted by the Education Act 2002 (c.32) section 201(1).

within the relevant group (as defined in each paragraph) in the local education authority's maintained schools.

**4B.** For each of the targets in paragraphs 1 and 3 above, a target in respect of Gypsy, Roma and Traveller of Irish heritage pupils where there are 3 or more such pupils within the relevant group (as defined in each paragraph) in the local education authority's maintained schools.".

**8.** After paragraph 7 of the Schedule insert the following—

**"Specific targets for other ethnic groups**

**8.**—(1) Where, in the last school year before the target setting date, for any of the ethnic groups specified in paragraph (2), either—

(a) the percentage of second key stage pupils who have achieved the relevant level or above is 10 or more percentage points below the percentage of all second key stage pupils who have achieved the relevant level or above in the local education authority's maintained schools, or

(b) the percentage of fourth key stage pupils who have achieved the relevant threshold is 10 or more percentage points below the percentage of all fourth key stage pupils who have achieved the relevant threshold in the local education authority's maintained schools,

the target set out in paragraph 9 for that ethnic group.

(2) The ethnic groups referred to in sub-paragraph (1) are—

White: British

White: Irish

Mixed: White and Asian

Any other Mixed background

Asian: Indian

Asian: Bangladeshi

Any other Asian background

Chinese

Any other ethnic group.

(3) In sub-paragraph (1)(a) the relevant level is level 4 in NC tests in both English and Mathematics.

(4) In sub-paragraph (1)(b) the relevant threshold is the level 2 threshold in approved qualifications including grades A*-C in English and Mathematics GCSE qualifications.

(5) In this paragraph "the target setting date" means the date by which, in accordance with regulation 3(2), the local education authority are required to set the target referred to in paragraph (1).

**9.** Where paragraph 8 applies, for each of the targets in paragraphs 1 and 3 above, a target in respect of any of the ethnic groups for which there are 30 or more pupils within the relevant group (as defined in each paragraph) in the local education authority's maintained schools.

**10.** The following are the ethnic groups within which pupils can fall for the purposes of this Schedule—

White: British

White: Irish

Any other White background

Mixed: White and Black Caribbean

Mixed: White and Black African

Mixed: White and Asian

Any other Mixed background

Asian: Indian

Asian: Pakistani

Asian: Bangladeshi

Any other Asian background

Black: Caribbean

Black: African

Any other Black background

Chinese

Any other ethnic group.".

*Sarah McCarthy-Fry*
Parliamentary Under Secretary of State
Department for Children, Schools and Families

1st December 2008

## EXPLANATORY NOTE

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

These regulations make amendments to two sets of regulations requiring performance targets to be set for children, the Education (School Performance Targets) (England) Regulations 2004 and the Education (Local Education Authority Performance Targets) (England) Regulations 2005.

Regulation 2 amends the Education (School Performance Targets) (England) Regulations 2004 to remove the requirements for the governing bodies of maintained schools to set performance targets for pupils relating to attainment in the third key stage.

Three changes are made by the amendments to the Education (Local Education Authority Performance Targets) (England) Regulations 2005.

The first change is to remove the requirement for local authorities to set performance targets for pupils relating to attainment in the third key stage *(regulation 5)*.

The second change is to reduce the number of ethnic groups for which local authorities must automatically set performance targets each year, and to add children eligible to receive free school meals to the list of those groups in respect of whom targets must be set (*regulation 7*).

The third change is to replace the automatic requirement for local authorities to set performance targets for certain ethnic groups with a requirement to set a target only where there is specific underperformance within an ethnic group (*regulation 8)*.

The regulations also make further amendments consequential on these three changes.

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