

2011 No. 3057

EDUCATION, ENGLAND

The Education (National Curriculum) (Key Stage 1 Assessment Arrangements) (England) (Amendment) Order 2011

Made - - - - *20th December 2011*

Coming into force - - *21st December 2011*

The Secretary of State for Education has consulted the Office of Qualifications and Examinations Regulation in accordance with section 87(6A)(a) of the Education Act 2002(a), and has also consulted with such other persons as he considers appropriate in accordance with section 87(6A)(b) of that Act.

The Secretary of State for Education makes the following Order in exercise of the powers conferred by sections 87(3)(c), (7), (10), (11) and (12A) and 210(7) of the Education Act 2002(b):

Citation and commencement

1. This Order may be cited as the Education (National Curriculum) (Key Stage 1 Assessment Arrangements) (England) (Amendment) Order 2011 and comes into force on 21st December 2011.

Amendments to the Education (National Curriculum) (Key Stage 1 Assessment Arrangements) (England) Order 2004

2. The Education (National Curriculum) (Key Stage 1 Assessment Arrangements) (England) Order 2004(c) is amended in accordance with articles 3 to 7.

3. In article 1 (citation, commencement and application) for paragraph (2) substitute—

“(2) In this Order—

- (a) articles 4, 5, 6 and 7 apply for the purpose of ascertaining the achievements in the core subjects of pupils who have completed the programme of study for the first key stage; and
- (b) 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(d).”.

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- (a) 2002 c.32; section 87(6A) was inserted by section 159(1) and (2) of the Apprenticeships, Skills, Children and Learning Act 2009 (c.22) (“the 2009 Act”).
 - (b) Subsection (7) of section 87 was amended by paragraph 35(1) and (3) of Schedule 12 to the 2009 Act and S.I. 2010/1158; subsection (11) was substituted by paragraph 35(1) and (6) of Schedule 12 to the 2009 Act; subsection (12A) was inserted by section 159(1) and (4) of the 2009 Act.
 - (c) S.I. 2004/2783, amended by S.I. 2010/677, 2011/2392. Article 8 of the 2004 Order (evaluation of assessment arrangements) is impliedly revoked by the repeal of the enabling power (section 87(9) of the Education Act 2002) by paragraph 35(1) and (4) of Schedule 12 to the 2009 Act.
 - (d) This purpose was specified by the Education (National Curriculum) (Specified Purpose) (England) Order 2011, S.I. 2011/2751.

4. After article 5 (standard task assessment: English and mathematics) insert—

“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 article 1(2)(b) in accordance with this article and any delegated supplementary provisions^(a) 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.

(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; and
- (b) any pupil, in the school year in which that pupil attains the age of seven, 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.

(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.”.

5. In article 6(10)(a) (moderation of assessments) for “this Order” substitute “article 4”.

6. After article 6 (moderation of assessments) insert—

“Monitoring of assessments under article 5A

6A.—(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).

(a) For the meaning of “delegated supplementary provisions” see section 87(12) of the Education Act 2002; that subsection was added by paragraph 35(1) and (6) of Schedule 12 to the 2009 Act. See, further, article 7 of this Order.

(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.”.

7. For article 9 (supplementary powers of the Secretary of State) substitute—

“Delegated supplementary provisions

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

- (a) standard tasks and the time when, and manner in which, such tasks are to be administered;
- (b) an assessment under article 5A and the time when, and manner in which, such as assessment is to be administered;
- (c) the circumstances in which the head teacher may decide a pupil should not be assessed under article 5A.

(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.”.

Pre-commencement consultation

8. Consultation undertaken by the Secretary of State before the day on which this Order comes into force is to be treated as satisfying the requirement in article 9(2) of the Education (National Curriculum) (Key Stage 1 Assessment Arrangements) (England) Order 2004.

20th December 2011

Nick Gibb
Minister of State
Department for Education

EXPLANATORY NOTE

(This note is not part of the Order)

This Order amends the Education (National Curriculum) (Key Stage 1 Assessment Arrangements) (England) Order 2004 (“the 2004 Order”) to include provisions about an assessment of pupils

aged six which will assess the extent to which they understand the correspondence between graphemes and phonemes in the English language. Phonemes are the smallest units of sound in a language, and graphemes are the letter or letters that represent phonemes.

The assessment are to be conducted by a teacher, who will record pupils' responses (article 5A(1) and (2) of the 2004 Order, inserted by article 4 of this Order). Pupils who do not reach the minimum score in the year in which they are first assessed will undergo the assessment again, in the following school year.

Local authorities are obliged to visit at least 10% of maintained schools in their area which are to carry out the assessments, to monitor compliance (article 6A of the 2004 Order, inserted by article 6 of this Order). If as a result the authority has concerns about the assessments carried out at a school it must inform the head teacher of the school and the Secretary of State (article 6A(4)).

The Secretary of State may make delegated supplementary provisions about the assessment which can include provisions about the time and manner in which the assessment is to be administered (article 9 of the 2004 Order, inserted by article 7 of this Order). If he does so, he must first consult the Office of Qualifications and Examinations Regulation and such other persons as he considers appropriate. Article 8 makes provision in relation to consultation carried out by the Secretary of State prior to this Order coming into force.

An impact assessment has not been prepared for this instrument as impacts on business, charities, voluntary bodies and the public sector will be minimal.

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