



Department  
for Education

# **Arrangements to implement the national reference test**

**Government consultation**

**Launch date 30 Nov 2015**

**Respond by 22 Jan 2016**

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## Introduction

This consultation asks for views on the proposal to introduce secondary legislation to support Ofqual's National Reference Test.

## Who this is for

- schools, including academies, colleges and further education institutions
- teachers, and organisations representing school teachers and lecturers
- parents and young people
- local authorities
- awarding organisations

## Issue date

The consultation was issued on 30 Nov 2015.

## Enquiries

If your enquiry is related to the policy content of the consultation you can contact the team on: 0370 000 2288 and ask for Iain Cuthbert.

or email:

[TheNationalReferenceTest.CONULTATION@education.gsi.gov.uk](mailto:TheNationalReferenceTest.CONULTATION@education.gsi.gov.uk)

If your enquiry is related to the DfE e-consultation website or the consultation process in general, you can contact the DfE Ministerial and Public Communications Division by email: [consultation.unit@education.gsi.gov.uk](mailto:consultation.unit@education.gsi.gov.uk) or by telephone: 0370 000 2288 or via the [DfE Contact us page](#).

## Additional copies

Additional copies are available electronically and can be downloaded from [GOV.UK DfE consultations](#).

## The response

The results of the consultation and the Department's response will be [published on GOV.UK](#) in spring 2016.

## About this consultation

We would like to hear your views on our proposals. Ofqual is introducing a new National Reference Test to support the setting of grades awarded at GCSEs by providing

additional evidence on changes in performance over time in mathematics and English Language. In March 2016, Ofqual will hold the Preliminary Reference Test, a full-scale operational trial, and the first annual National Reference Test will take place in March 2017. The introduction of the test supports the programme of reform of GCSEs and is expected to contribute to setting standards in the new GCSEs. Background to the reform of GCSEs is available from GOV.UK.<sup>1, 2</sup>

Currently, Ofqual's comparable outcomes approach<sup>3</sup> allows exam boards to increase (or decrease) the proportion of pupils awarded a higher grade in a particular year, provided that there is evidence to show performance has genuinely improved (or declined) across the cohort. Providing evidence to show performance has genuinely improved (or declined) is not straightforward. Teachers are concerned that their efforts to raise standards, year by year, may not be fully reflected in the awards made at GCSE. This is the gap in information that the new test is designed to address.

Participation in the test will benefit both schools and pupils, as it will help to provide more direct evidence of improving school performance at the national level which can be reflected in the grades that are awarded at GCSE. A sample of pupils will take the test shortly before they sit their GCSEs so the evidence will provide a timely indicator of performance across the cohort. Information from key stage 2 results will also continue to be used to support the setting of grades at GCSE.

Ofqual has requested that DfE introduces secondary legislation to require selected schools to take part in the test. This will help to ensure that the sample of pupils and schools that take part each year will be fully representative of the national cohort taking GCSEs at the end of key stage 4. We support Ofqual's request and are therefore seeking your views on the proposed secondary legislation.

This consultation is not seeking views on the introduction of the National Reference Test. Ofqual consulted on this proposal in 2014.

## Respond online

To help us analyse the responses please use the online system wherever possible. Visit [www.education.gov.uk/consultations](http://www.education.gov.uk/consultations) to submit your response.

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<sup>1</sup> <https://www.gov.uk/government/publications/get-the-facts-gcse-and-a-level-reform/get-the-facts-gcse-reform>

<sup>2</sup> <https://www.gov.uk/government/collections/reform-of-gcse-qualifications-by-ofqual>

<sup>3</sup> For further information, see <https://ofqual.blog.gov.uk/2015/08/05/gcse-marking-and-grading/>

## Other ways to respond

If for exceptional reasons, you are unable to use the online system, for example because you use specialist accessibility software that is not compatible with the system, you may download a word document version of the form and email it or post it.

### By email

- [TheNationalReferenceTest.CONSULTATION@education.gsi.gov.uk](mailto:TheNationalReferenceTest.CONSULTATION@education.gsi.gov.uk)

### By post

Iain Cuthbert  
Department for Education  
2<sup>nd</sup> Floor, Great Smith Street,  
London SW1P 3BT

## Deadline

The consultation closes on 22 Jan 2016.

We acknowledge that this consultation runs over the school Christmas holidays and it will therefore run for 8 weeks rather than 6 weeks.

## Background and context of the consultation

### Ofqual's National Reference Test

The National Reference Test is one of a number of strands of activity that Ofqual is taking forward to strengthen the GCSE grade setting process. Tests will take place in mathematics and English language. Appendix 1 provides more details about the National Reference Test which Ofqual published in June.

Ofqual will publish information about overall test performance each summer when GCSE results are announced. However, as the test will not measure performance for individual schools or pupils, the results will not be used for school accountability purposes and results will not be given to individual pupils.

The new test can only be successful if schools participate. It is particularly important that the sample of schools and pupils that take part in the test each year is nationally representative.

## Proposed new secondary legislation

Ofqual has already consulted on the introduction of the test as part of its plans for setting grade standards for the new GCSEs<sup>4</sup>. It announced on 17 April 2015 that it had awarded a contract to NFER to develop and deliver the test<sup>5</sup>. We now propose to introduce secondary legislation to support Ofqual to implement the National Reference Test. The legislation would come into effect on 1 September 2016. The proposed secondary legislation is set out in the two draft statutory instruments (Appendix 2):

### A. The Education (National Curriculum) (Specified Purpose) (England) Order 2015

This sets out the purpose of the legislation, to provide evidence to the Office of Qualifications and Examinations Regulation (Ofqual) on changes to performance standards over time in GCSE English language and mathematics at the end of Key Stage 4 and is specified for the purposes of section 76(2) (b) of the Education Act 2002.

### B. The Education (National Curriculum) (Key Stage 4 Assessment Arrangements) (England) Order 2015.

This will require:

1. the head teacher to arrange for each pupil who has been selected to take the test prepared and delivered by Ofqual's test supplier.
2. the head teacher to consider whether a pupil who has been selected should not take the test, applying guidance issued by Ofqual's test supplier.
3. that any supplementary provisions made by Ofqual's test supplier will be subject to the approval of the Secretary of State.

In designing the new test, Ofqual has been careful to balance the need for test outcomes to be sufficiently precise to be suitable for use in setting GCSE grade boundaries while minimising the burden on schools and pupils. Ofqual will require about 15,000 pupils to take a test each year (either in mathematics or English), which is about 2.5% of the total number of pupils in year 11. To ensure the validity of the test it is essential that schools arrange for the pupils who are selected to take the test. If a school declined to participate at all, or were not to make the selected pupils available, there would be a risk that the test results would not be based on a nationally representative sample. So the proposed legislation would make it mandatory for a school to take part in the test if it has been selected by Ofqual's test supplier.

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<sup>4</sup> <https://www.gov.uk/government/news/setting-standards-for-new-gcse-in-2017>

<sup>5</sup> <https://www.gov.uk/government/news/ofqual-signs-national-reference-tests-contract>

Each year, about 300 schools will be asked to take part. A different sample of schools will be used each year, so it is very unlikely (but not impossible) that a school will be asked to take part in consecutive years.

The school will provide to Ofqual's test supplier a list of all its pupils in year 11 that it will enter for GCSE mathematics or English language and the test supplier will select pupils at random from this list to achieve a nationally representative sample. It is therefore important that the selected pupils take the test. However, we recognise that there can be very limited and specified circumstances where it would not be appropriate for an individual pupil to take a test. Only the school can make this assessment and therefore the proposed legislation gives the head teacher the authority to withdraw an individual pupil from taking the test. Ofqual's test supplier will provide additional guidance to schools in how to make this assessment.

Ofqual is developing the test with the expectation that the head teacher will rarely need to exercise his/her authority to withdraw an individual pupil. Access arrangements and reasonable adjustments that are available to pupils who have special educational needs, disabilities or temporary injuries when they take their GCSEs, will be accommodated in the National Reference Test. These will include allowing additional time, providing modified, large-print and braille papers, and the use of scribes or readers where these are permitted in the GCSE. We are therefore seeking views on what circumstances might be considered appropriate for a head to withdraw an individual pupil from a test.

Ofqual's test supplier will provide schools with detailed guidance and advice about how the test will be administered and it is therefore appropriate for the proposed legislation to require the guidance to be subject to the approval of the Secretary of State. This will help ensure that the administrative burden on schools is kept to a minimum.

The test supplier will send an experienced test administrator to each school to run the test to ensure that all test materials are kept secure and that the test is taken in a consistent way. Schools therefore will not be responsible for conducting the test but will need to work with the test supplier to make the arrangements and to ensure normal exam conditions are maintained during the test itself.

The National Reference Test is based on the new GCSEs that the pupils will be taking later in the year. Schools that are selected to take part in the test will not have to arrange any additional teaching or prepare their pupils for the test which will last around an hour. The school will need to provide a suitable room in which the test can be taken and to ensure that the students who have been selected to take the test are released from lessons at the pre-arranged time. A member of the school's staff is expected to be present to ensure that normal exam conditions are maintained during the test itself. Recognising the additional work involved for schools that take part in the test, schools will receive a payment broadly equivalent to the cost of a supply teacher for a day.

The proposed legislation would apply to maintained schools. It would also apply to most academies and free schools through an existing provision in their funding agreement that requires them to comply with guidance issued by the Secretary of State in relation to assessments. It would not apply to independent schools although pupils at independent schools will also be asked to take the test to ensure that the sample of pupils that take the test is nationally representative.

## Consultation questions

1. To what extent do you agree or disagree that it should be mandatory, if selected, for a school and the sample of pupils to take part in the National Reference Test?

Select from:

**strongly agree** / agree / disagree / strongly disagree / don't know or no opinion

Please provide evidence to support your response.

**This is essential if proper inference is to be made about the whole population. It seems unlikely that this will be possible unless independent schools are also required to participate.**

2. To what extent do you agree or disagree that the head teacher should be able to withdraw a pupil that has been selected to take the test, having regard to the guidance that the test supplier will provide?

Select from:

strongly agree / **agree** / disagree / strongly disagree / don't know or no opinion

Please provide evidence to support your response.

**There will be extreme cases where a pupil's safety or health might be put at risk by participating in the test. It would be unreasonable to expect a child to participate under these circumstances.**

3. What circumstances do you consider would justify a head withdrawing a pupil from taking a test, taking into account the need to achieve a nationally representative sample of students and that pupils do not receive individual results or awards from taking the National Reference Test?

Please provide comments.

Cases where a pupil's safety or health might be put at risk by participating in the test. It could be that external professional evidence of this is required.

There will be a practical difficulty with pupils who do not attend the school, but who have entered as private candidates through the school; they may not be available for the test. This may apply to a substantial number of home-schooled children and others.

There will need to be guidance about pupils who have been excluded from school apart from sitting examinations.

It may be that this level of detail is inappropriate given the more significant proportion of pupils who will simply be absent on the day when, if it had been the day of their GCSE exam, they may well have attended.

4. To what extent do you agree or disagree that the test administrator's guidance should be subject to the approval of the Secretary of State?

Select from:

strongly agree / **agree** / disagree / strongly disagree / don't know or no opinion

Please provide evidence to support your response.

## Equalities Impact

In accordance with the Equality Act 2010, public bodies must have "due regard", when making decisions, to the need to eliminate discrimination, harassment, victimisation; advance equality of opportunity; and foster good relations, in relation to relevant protected characteristics. It would therefore be very helpful to understand if, in your view, there is any potential for the proposed legislation to have a disproportionate impact upon any pupil with relevant protected characteristics under the Equality Act 2010.

Ofqual has considered the impact of introducing the National Reference Test. This is set out in its Board paper 68/14<sup>6</sup>.

We have set out in this consultation why making the test mandatory will help to ensure that the sample of pupils that take the test is nationally representative. Similarly, making the test mandatory will ensure that pupils with a relevant protected characteristic are included in the overall sample and their performance is reflected in the National

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<sup>6</sup> [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/429403/68\\_14-nationalreference-tests.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/429403/68_14-nationalreference-tests.pdf)

Reference Test results. If pupils with protected characteristics who were entered for GCSEs were excluded from taking the test or had the option not to take it, the test outcomes would not reflect the performance of the national GCSE cohort.

Ofqual's test supplier will provide similar reasonable adjustments for disabled pupils taking the National Reference Test that are available to disabled pupils when they take their GCSEs and similar access arrangements for pupils who have temporary injuries. For example, these will include large print and braille versions of the test, allowing extra time and the use of a scribe.

We propose to enable the head teacher to withdraw a pupil who has been selected to take the test. This ensures that, in exceptional circumstances, an individual pupil who would be disproportionately impacted due to having a protected characteristic were they to take the test, can be protected.

Every pupil who is asked to take the National Reference Test will be encouraged to do their best. However, unlike an exam for a qualification, the outcome of the test will have no direct impact on that individual pupil's GCSE results. The test is solely intended to measure performance nationally.

## Consultation question

5. Do you think that the proposed secondary legislation has a disproportionate impact, positive or negative, on specific pupils, in particular those with 'relevant protected characteristics'?

The relevant protected characteristics are disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex and sexual orientation.

Select from:

- will have a disproportionate positive impact on specific pupils
- will have a disproportionate negative impact on specific pupils
- will have no disproportionate impact on specific pupils
- **don't know / no opinion**

Please provide evidence to support your response.

# Appendix 1

## National Reference Test: an overview<sup>7</sup>

Ofqual is introducing the new National Reference Test to provide additional information to support the setting of grades awarded for GCSEs. The purpose of the test is to provide evidence on changes in performance standards over time in English language and mathematics in England at the end of year 11. The test should show, over several years, if there is a change in how pupils perform at the national level, which will be considered carefully when setting grades at GCSE.

The test will provide additional information that Ofqual expects will significantly advance its ability to detect genuine changes in performance and so improve awarding. It will act cautiously as it builds an understanding over several years of the information that the test will provide and form a judgement on how this is used in setting grades at GCSE.

## Test design

There will be separate tests for mathematics and English. They will be based on the new content for GCSEs in mathematics and English language, which pupils will take for the first time in summer 2017.

The questions may not be in exactly the same style as the new GCSE questions, but they will be suitable for pupils who are studying for the GCSE. The questions used in the test will not reflect any particular exam board's style of GCSE questions. Ofqual will publish some example questions early next year.

Each test is divided into several booklets. Each pupil takes just one booklet, so no pupil has to take the whole test.

The reference test for mathematics, unlike the GCSE, will not be tiered. Most of the questions will be based on the GCSE content that all pupils taking the qualification have to study. There will be a few questions at the end of each booklet that will be based on the content only studied by those preparing to take the higher tier GCSE.

The reference test for English will include questions that require pupils to write longer responses as well others that can be answered with short, one sentence responses. There is no testing of spoken language in the English test.

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<sup>7</sup> First published by Ofqual, 1 June 2015 at <https://www.gov.uk/government/news/national-referencetests-an-overview>

The questions will remain largely the same from year to year to enable performance standards to be compared. Therefore, the questions used in the test have to remain confidential and will not be published, and Ofqual will not be able to provide individual feedback to the pupils or schools who have taken part in the test.

## Timetable

The new test will be developed over the next 18 months and the first National Reference Test will be taken in March 2017. In future years the information from the test will be taken into account when GCSEs are awarded.

In September and October 2015, Ofqual trialled questions that have been developed for the new test. In March 2016, it will hold a Preliminary Reference Test. This will involve the same number of schools and pupils as tests which will be held in future years but the purpose of the test in 2016 is to confirm that all the operational arrangements are working well. The preliminary test is a very important step that will allow Ofqual to introduce the reference test smoothly in 2017.

## Who takes the test?

Each year, about 30 pupils from around 300 schools will be selected at random to take a test booklet in mathematics and another 30 pupils at these schools will be selected to take a test booklet in English. The pupils will be in year 11 and will take the test in early March, before they take their GCSEs (in late May and early June). The test will take each pupil around an hour to complete. The results will be analysed only at the national level; there will be no results for individual schools or pupils.

Ofqual expects all randomly selected pupils to take the test. This will provide the most statistically sound sample. However, head teachers will have the option to exclude pupils from the testing - at their discretion and in particular circumstances. This option would be used for a specific reason such as accessibility or situations where taking the test may cause undue distress for the pupil. NFER, which is administering the test on Ofqual's behalf, will make the test as pupil-friendly as possible and allow all reasonable and appropriate access arrangements so it is hoped that such exclusions will be needed only in rare cases.

Ofqual will use a different sample of schools each year. NFER will select the schools to take part. The selected schools will provide a list of all their pupils in year 11 that they expect will take the GCSE (in mathematics or English language). From this list NFER will randomly select which pupils will be asked to take the test to achieve a nationally representative sample.

## How will it be administered in schools?

NFER is working with Ofqual to develop the test. In order to minimise the burden on participating schools, a test administrator from NFER will come to the school on a preagreed day and carry out the test. The school will need to provide a room where the pupils can take the test and NFER's administrator will invigilate it. A member of the school's staff is also expected to be present to ensure that normal exam conditions are maintained during the test itself. The test will last around an hour for each pupil.

## What results will be published and when?

Towards the end of August each year Ofqual will publish the national measures of performance in the test, around when exam boards publish GCSE results. Ofqual will also explain how performance in the National Reference Test has been taken into account in awarding the GCSEs.

The results of the reference test will set out the percentage of pupils in that year who are predicted, based on the test, to achieve at least a grade 4, a grade 5 or a grade 7 in their GCSE<sup>8</sup>. The test will show if these percentages change from year to year. And it is these changes, if any, that will be taken into account when GCSEs are being awarded. Ofqual is developing the details of what it will publish and will confirm this later in the year. The first time that it will be able to compare performance between years will be in 2018.

There will be no results for individual pupils or schools. So, for example, no result can be recorded in pupils' school records. The only information will be for England as a whole.

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<sup>8</sup>

[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/460142/new\\_gcse\\_grading\\_structure.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/460142/new_gcse_grading_structure.pdf)



## Appendix 2

### Draft statutory instruments

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STATUTORY INSTRUMENTS

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2016 No.

### EDUCATION, ENGLAND

#### The Education (National Curriculum) (Specified Purpose) (England) Order 2016

*Made* - - - -

*Laid before Parliament*

*Coming into force* - - *1st September 2016*

The Secretary of State makes this Order in exercise of the powers conferred by section 76(2)(b) of the Education Act 2002(a).

#### **Citation and commencement**

1. This Order may be cited as the Education (National Curriculum) (Specified Purpose) (England) Order 2016 and comes into force on 1st September 2016.

#### **Specified purpose of assessment arrangements**

2. The purpose of providing evidence to the Office of Qualifications and Examinations Regulation(b) on changes to performance standards over time in GCSE English language and mathematics at the end of the fourth key stage is specified for the purposes of section 76(2)(b) of the Education Act 2002.

*Name*

Minister of State

Date Department for Education

#### **EXPLANATORY NOTE**

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

## DRAFT

Part 6 of the Education Act 2002 (“the 2002 Act”) is concerned with the curriculum for maintained schools in England. One aspect of the National Curriculum for England (as to which, see section 80(1)(b) of the 2002

- (a) 2002 c. 32. Section 76(2) was inserted by sections 174 and 192 of, and paragraphs 31, 32(1) and (5) of Schedule 12 to, the Apprenticeships, Skills, Children and Learning Act 2009 (c. 22).
- (b) The Office of Qualifications and Examinations Regulation is a Non-Ministerial Department established under section 127 of the Apprenticeships, Skills, Children and Learning Act 2009 (c. 22).

Act) is the arrangements for assessing pupils for certain purposes (assessment arrangements). This Order, made under section 76(2)(b) of the 2002 Act, specifies an additional purpose for which such arrangements may be made. The purpose specified is providing evidence to the Office of Qualifications and Examinations Regulation (Ofqual) on changes to performance standards over time in GCSE English language and mathematics at the end of the fourth key stage.

An impact assessment has not been produced for this instrument as no, or no significant, impact on the private, voluntary or public sectors is foreseen.

2016 No.

**EDUCATION, ENGLAND**

The Education (National Curriculum) (Key Stage 4 Assessment Arrangements) (England) Order 2016

*Made* - - - -

*Laid before Parliament*

*Coming into force* - - *1st September 2016*

The Secretary of State makes this Order in exercise of the powers in sections 87(3)(c), (7), (10), (11), (12A) and (13) and 210(7) of the Education Act 2002(a).

The Secretary of State has consulted the Office of Qualifications and Examinations Regulation(b) in accordance with section 87(6A)(a) of the Education Act 2002(c).

**Citation and commencement**

1. This Order may be cited as the Education (National Curriculum) (Key Stage 4 Assessment Arrangements) (England) Order 2016 and comes into force on 1st September 2016.

**Interpretation**

2. In this Order—

“National Reference Test (NRT)” means the test administered to a selection of pupils in the fourth key stage for the purpose of providing evidence to Ofqual on changes to performance standards over time in GCSE English language and mathematics;

“Ofqual” means the Office of Qualifications and Examinations Regulation; and

“test supplier” means a body approved by the Office of Qualifications and Examinations Regulation to administer and deliver the NRT.

(a) 2002 c. 32. Section 87(7) was amended by sections 174, 192 and 266 of, and paragraphs 31, 35(1), (3)(a) and (3)(b) of Schedule 12, and Part 4 of Schedule 16 to, the Apprenticeships, Skills, Children and Learning Act 2009 (c. 22); and by section

## DRAFT

26 of, and paragraphs 11 and 13 of Schedule 8 to, the Education Act 2011 (c. 21). Section 87(10) was amended by sections 48 and 103(2) of, and paragraphs 10(1) and (8)(b) of Schedule 1, and Part 1 of Schedule 3 to, the Childcare Act 2006 (c. 21). Section 87(11) was amended by sections 174 and 192 of, and paragraphs 31, 35(1) and (6) of Schedule 12 to, the Apprenticeships, Skills, Children and Learning Act 2009. Section 87(12A) was amended by section 159(1) and (4) of the Apprenticeships, Skills, Children and Learning Act 2009.

- (b) The Office of Qualifications and Examinations Regulation is a Non-Ministerial Department established under section 127 of the Apprenticeships, Skills, Children and Learning Act 2009 (c. 22).
- (c) Section 87(6A) was inserted by section 159(1) and (2) of the Apprenticeships, Skills, Children and Learning Act 2009 (c. 22).

### NRT

3. —(1) The head teacher must arrange for each pupil to whom this article applies to be assessed by a test supplier.

(2) This article applies—

- (a) in the 2016-17 school year and every school year after that;
- (b) to a pupil in the final year of the fourth key stage;
- (c) in respect of English language and mathematics;
- (d) if the pupil's school has been designated for the purpose of this article; and
- (e) if the pupil has been selected by the test supplier to be assessed in respect of the NRT.

(3) A pupil may only be assessed in either English language or mathematics for the purposes of the NRT.

(4) The test supplier must notify the designated schools in writing within two weeks of making a determination pursuant to paragraph (2)(d).

(5) The head teacher must consider whether a pupil falling within paragraph 2(e) should not be assessed in accordance with this article and where the head teacher so decides this article does not apply to that pupil.

(6) The test supplier must assess the pupil in either English language or mathematics in accordance with any arrangements for those subjects made under paragraph (7).

(7) The test supplier may make delegated supplementary provisions in relation to— (a) the NRT and the time when, and manner in which, the NRT is to be administered; and

- (b) the circumstances in which the head teacher may decide that a pupil should not be assessed under paragraph (5).

(8) Before making, amending or revoking any delegated supplementary provisions, the test supplier must consult Ofqual and may consult such other persons as the test supplier considers appropriate.

(9) Delegated supplementary provisions made under this Order may only be made by the test supplier with the approval of the Secretary of State.

*Name*

Minister of State

Date Department for Education

### EXPLANATORY NOTE

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

This Order makes provision for the introduction of a new National Reference Test (NRT) from the school year 2016-17. The test will apply to a sample of schools and pupils in the final year of the fourth key stage, who will sit the tests in either English language or mathematics. The samples will be selected by a test supplier, who will administer the tests and make any delegated supplementary provisions in respect of them, subject to the Secretary of State's approval.

An impact assessment has not been produced for this instrument as no, or no significant, impact on the private, voluntary or public sectors is foreseen.



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write to Information Policy Team, The National Archives, Kew, London, TW9 4DU

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