

CURRICULUM AND ASSESSMENT (WALES) ACT 2021 (ASC 4)

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Schedule 2 - Minor and Consequential Amendments and Repeals

Education Act 1996

206. Paragraphs 2-4, 21, 25, 47-50, 52-55 and 64-65 of Schedule 2 make minor and consequential amendments in relation to the provision of education otherwise than at school, including at PRUs.
207. Paragraph 3 amends section 19 of the 1996 Act (exceptional provision of education in pupil referral units or elsewhere) so that it applies to England only.
208. Paragraph 4 inserts section 19A into the 1996 Act. This section applies in relation to Wales only. It requires local authorities in Wales to make arrangements for suitable education at school or otherwise than at school for children of compulsory school age within the local authority's area who, by reason of illness, exclusion from school or otherwise, may not receive suitable education for a period unless such arrangements are made for them.
209. Paragraph 6 amends section 375 of the 1996 Act (agreed syllabuses of religious education) so that it applies to England only.
210. Paragraph 7 inserts section 375A into the 1996 Act. This section applies in relation to Wales only. It places a duty on each local authority in Wales to adopt a syllabus of RVE for use in the schools it maintains. The new section also introduces, in relation to Wales, Schedule 31 of the 1996 Act, which establishes the constitution and functions of agreed syllabus conferences convened by local authorities.
211. Section 375A of the 1996 Act allows the agreed syllabus for RVE to make different provision for different types of schools and learners. The syllabus must reflect the fact that religious tradition in Wales are mainly Christian. It must also take account of the teaching and practices of the other principal religions represented in Wales and the fact that a range of non-religious philosophical convictions are held in Wales.
212. Paragraphs 8 to 11 make amendments to sections 390-392 of the 1996 Act, which relate to the constitution and functions of standing advisory councils, so that they apply in relation to the provision of RVE in Wales (as well as in relation to the provision of RE in England).
213. Paragraph 9 amends section 390 of the 1996 Act (constitution of advisory councils). The effect is that, where a local authority in Wales constitutes a standing advisory council on RVE, it must appoint a group of persons to represent Christian denominations, other religions and denominations, and non-religious philosophical convictions to its standing advisory council. The local authority must take all reasonable steps to secure that the

membership of the group is numerically proportionate to the strength of each religion, denomination, or conviction in its local area (see the new subsection (6A) and (6B) of section 390 inserted by paragraph 9(8) of the Schedule.)

214. The local authority will, in addition, need to appoint groups of persons to the standing advisory council to represent the local authority and teachers: this requirement is already provided for in the 1996 Act and is not altered by the Act.
215. [Paragraph 9](#) of the Schedule further amends section 390 of the 1996 Act so as to include a duty on a local authority in Wales to have regard to any guidance given by the Welsh Ministers when exercising its functions under section 390.
216. [Paragraph 10](#) inserts subsection (1A) into section 391 of the 1996 Act (functions of advisory councils). This subsection sets out the purposes for which a local authority in Wales must constitute a standing advisory council. These include the provision of advice to the local authority about the teaching and learning to be provided in respect of the mandatory element of RVE, and in respect of RVE provided on request to the post-compulsory education age group (school years 12 and 13) under section 60. (The content of RVE provided by schools with a religious character in accordance Schedule 1 to this Act and which accords with their trust deeds, tenets of their religion, or religious denomination remains a matter for the school.)
217. [Paragraph 13](#) amends section 396 of the 1996 Act (power to direct advisory council to revoke determination or discharge duty) so that it applies to England only.
218. [Paragraph 14](#) inserts section 396A into the 1996 Act. This section applies in relation to Wales only. It gives the Welsh Ministers a power to direct a standing advisory council constituted by a local authority in Wales to revoke a determination made under section 394 or 395 of the 1996 Act, or to discharge a duty imposed on a standing advisory council under those sections. Section 394 of the 1996 Act requires standing advisory councils to determine applications made by the head teacher of a community school, or a voluntary school without a religious character, for the requirement for Christian collective worship not to apply to the school (or to a class or description of pupils at the school); and section 395 of the 1996 Act requires standing advisory councils to review those determinations.
219. [Paragraph 15](#) amends section 397 of the 1996 Act (religious education: access to meetings and documents) in order to make it clear that the power to make regulations about the meetings and documents of standing advisory councils constituted by local authorities in Wales and agreed syllabus conferences convened by local authorities in Wales rests with the Welsh Ministers.
220. [Paragraph 16](#) amends section 399 of the 1996 Act (determination of question whether religious education is in accordance with trust deed) so that the section applies in relation to RVE provision at a foundation or voluntary school in Wales in the same way that it applies in relation to RE at a foundation or voluntary school in England.
221. [Paragraphs 17 to 20](#) of Schedule 1 amend sections 403 – 405, which relate to sex education, so that they apply to England only.
222. [Paragraph 22](#) inserts references to section 397 of the 1996 Act, and paragraphs 6B and 6C of Schedule 1 to that Act, into section 569 of that Act. Section 569 sets out the legislative procedures for regulations made under the 1996 Act.
223. [Paragraphs 23 and 24](#) make technical amendments to section 579 (general interpretation) and section 580 (index). That includes updating the entry for “agreed syllabus” in the index of defined terms so that it lists separately the Wales-only provision in section 375A(7) and the England-only provision in section 375(2) and (4).

224. [Paragraph 25](#) amends Schedule 1 to the 1996 Act, which relates to PRUs. It inserts paragraphs 6A-6D into that Schedule: these paragraphs apply in relation to PRUs maintained by a local authority in Wales.
225. Paragraph 6B(1) of Schedule 1 to the 1996 Act places duties on the local authority, the management committee (if there is one) and the teacher in charge of a PRU in relation to the curriculum for registered pupils at the PRU. Specifically, it requires them to exercise their functions in relation to pupils of compulsory school age in accordance with sections 50 to 52 of this Act. It also requires them to exercise their functions in relation to pupils above compulsory school age with a view to securing that the curriculum for those pupils meets the requirements specified in paragraph 6B(2) of Schedule 1 to the 1996 Act.
226. Paragraphs 6B(3) and 6C of Schedule 1 to the 1996 Act enable the Welsh Ministers to make regulations about the provision of a curriculum for pupils above compulsory school age at PRUs, and also regulations requiring local authorities, management committees and teachers in charge of PRUs to exercise specified functions in relation to the curriculum, in collaboration or otherwise.
227. Paragraph 6D of Schedule 1 to the 1996 Act requires each local authority in Wales to make arrangements for dealing with certain curriculum-related complaints, including complaints relating to the exercise of functions under section 50, 51 or 52 of this Act. Paragraph 6D(2) of Schedule 1 to the 1996 Act prevents the Welsh Ministers from exercising their intervention powers under Chapter 2 of Part 2 of the School Standards and Organisation (Wales) Act 2013 in relation to such complaints unless the complaints have been made, and dealt with, under the local authority arrangements.
228. [Paragraph 25\(5\)](#) amends paragraph 8 of Schedule 1 to the 1996 Act so that it applies to England only. It also inserts a new sub-paragraph which provides that sections 406 and 407 of the 1996 Act apply in relation to PRUs in Wales. Those sections make provision to prohibit political indoctrination and to ensure a balanced treatment of political issues.
229. [Paragraph 26](#) amends Schedule 31 of the 1996 Act. The Schedule, as amended, makes provision about agreed syllabuses of RE (in England) and RVE (in Wales).
230. [Paragraph 26\(4\)](#) amends Schedule 31 to the 1996 Act so as to require a local authority in Wales that convenes an agreed syllabus conference to appoint a committee of persons to the conference to represent Christian denominations, other religions and denominations, and non-religious philosophical convictions. The local authority must take all reasonable steps to secure that the membership of the committee is numerically proportionate to the strength of each religion, denomination, or conviction in its local area (see the new paragraph 4(5) and (6) of Schedule 31 to the 1996 Act inserted by paragraph 26(6)).
231. [Paragraph 26\(9\)](#) inserts paragraph 9A into Schedule 31 to the 1996 Act. Paragraph 9A set out the conditions that must be met before a local authority in Wales may adopt its first agreed syllabus for RVE under section 375A of the 1996 Act. It specifies the circumstances where by the Welsh Ministers would be required to take action (see paragraph 12 of Schedule 31) in the event of those conditions for adoption not being met.
232. [Paragraph 26\(10\)](#) inserts sub-paragraphs (2A) to (2D) into paragraph 10 of Schedule 31 to the 1996 Act. Sub-paragraphs (2B) and (2C) set out the conditions that must be met before a local authority in Wales may give effect to the recommendations made by an agreed syllabus conference that has been convened to reconsider an agreed syllabus.
233. [Paragraph 26\(11\)](#) inserts sub-paragraph (1A) into paragraph 12 of Schedule 31 to the 1996 Act. This sub-paragraph states that, where required by paragraph 9A or 10 of that Schedule, the Welsh Ministers must appoint a group of people with relevant experience to prepare their RVE syllabus.

*These notes refer to the Curriculum and Assessment (Wales) Act
2021 (asc 4) (c.4) which received Royal Assent on 29 April 2021*

234. Paragraph 26(12) and (13) amends paragraphs 13 and 14 of Schedule 31 to the 1996 Act to take account of the different requirements for agreed syllabuses in Wales and in England.
235. Paragraph 26(14) inserts paragraph 14A into Schedule 31 to the 1996 Act. Paragraph 14A requires the persons specified in that paragraph to have regard to any guidance given by the Welsh Ministers when exercising their functions under the Schedule.