



# Curriculum and Assessment (Wales) Act 2021

2021 asc 4

## PART 7

### GENERAL

**72 Status of this Act as an Education Act**

This Act is to be included in the list of Education Acts in section 578 of the Education Act 1996 (c. 56).

**73 Minor and consequential amendments and repeals**

Schedule 2 contains minor and consequential amendments and repeals.

**74 Power to make additional provision to give full effect to this Act etc**

(1) Regulations may make—

- (a) any supplementary, incidental or consequential provision, or
- (b) any transitory, transitional or saving provision,

that the Welsh Ministers think necessary or appropriate for the purposes of giving full effect to, or in consequence of, any provision made by or under this Act.

(2) Regulations under subsection (1) may modify this Act or any other enactment (whenever enacted or made).

**75 Regulations**

(1) A power to make regulations under this Act—

- (a) is exercisable by statutory instrument, and
- (b) includes power to make different provision for different purposes.

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*Status: Point in time view as at 29/09/2021.*

*Changes to legislation: There are currently no known outstanding effects for the Curriculum and Assessment (Wales) Act 2021, PART 7. (See end of Document for details)*

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- (2) A statutory instrument containing—
- (a) regulations under section 5, 31 or 48, or
  - (b) regulations under section 74 that amend or repeal any enactment contained in primary legislation,
- may not be made unless a draft of the instrument has been laid before, and approved by a resolution of, Senedd Cymru.
- (3) Any other statutory instrument containing regulations under this Act is subject to annulment in pursuance of a resolution of Senedd Cymru.
- (4) In subsection (2), “primary legislation” means—
- (a) an Act of Senedd Cymru;
  - (b) an Assembly Measure;
  - (c) an Act of Parliament.

## **76 The What Matters Code and the Progression Code: procedure**

- (1) This section applies to—
- (a) the What Matters Code;
  - (b) the Progression Code.
- (2) Before issuing or revising the Code, the Welsh Ministers must—
- (a) consult the persons they think appropriate (if any), and
  - (b) lay before Senedd Cymru a draft of the proposed Code (or, in the case of revisions, of the proposed revised Code).
- (3) If, before the end of the 40 day period, the Senedd resolves not to approve a draft laid before it under subsection (2)(b), the Welsh Ministers must not issue the Code or revised Code in the form of that draft (or in any other form, unless a draft of that other form is laid before the Senedd under subsection (2)(b)).
- (4) If no such resolution is made before the end of that period in respect of a draft laid before the Senedd under subsection (2)(b), the Welsh Ministers must issue the Code (or revised Code) in the form of the draft.
- (5) The 40 day period, in relation to a draft—
- (a) begins with the day on which the draft is laid before the Senedd under subsection (2)(b), and
  - (b) does not include any period during which the Senedd is dissolved, or is in recess for more than four days.
- (6) Where the Welsh Ministers consult any persons about a Code referred to in subsection (1) before this section comes into force, that consultation is to be treated as fulfilling the duty in subsection (2)(a) in relation to that Code.

## **77 The RSE Code: procedure**

- (1) Before issuing or revising the RSE Code, the Welsh Ministers must—
- (a) consult the persons they think appropriate (if any), and
  - (b) lay before Senedd Cymru a draft of the proposed Code (or, in the case of revisions, of the proposed revised Code).

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- (2) The Welsh Ministers must not issue the RSE Code (or the revised RSE Code) unless a draft of the proposed Code (or of the proposed revised Code)—
  - (a) has been laid before the Senedd under subsection (1)(b), and
  - (b) has been approved by a resolution of the Senedd.
- (3) If the Senedd resolves to approve a draft laid before it under subsection (1)(b), the Welsh Ministers must issue the RSE Code (or the revised RSE Code) in the form of the draft.
- (4) Where the Welsh Ministers consult any persons about the RSE Code before this section comes into force, that consultation is to be treated as fulfilling the duty in subsection (1)(a).

## **78 Written information, notices and directions**

- (1) This section applies where provision made by or under this Act—
  - (a) requires information to be given to a person in writing,
  - (b) requires a written notice to be given to a person, or
  - (c) requires or authorises a direction to be given to a person.
- (2) The information, notice or direction may be given to the person—
  - (a) by delivering it to the person,
  - (b) by leaving it at the person's proper address,
  - (c) by sending it by post to the person's proper address, or
  - (d) if the condition in subsection (3) is met, by sending it electronically to the person's proper address,and the references in subsections (4) to (6) to giving information or a notice or a direction are references to giving it in one of the ways specified in paragraphs (a) to (d).
- (3) The condition in this subsection is met if the person to whom the information, notice or direction is to be given—
  - (a) has agreed that it may be sent electronically, and
  - (b) has provided an address suitable for that purpose.
- (4) The information, notice or direction may be given to a body corporate by giving it to the secretary or clerk of that body.
- (5) The information, notice or direction may be given to a partnership by giving it to—
  - (a) a partner in the partnership, or
  - (b) a person having the control or management of the partnership business.
- (6) The information, notice or direction may be given to any other unincorporated body by giving it to a member of the governing body of the unincorporated body.
- (7) For the purposes of subsection (2)(b) and (c) and section 13(1) of the Legislation (Wales) Act 2019 (anaw 4) (service of documents), the proper address of a person is—
  - (a) in the case of a head teacher, the address of the school;
  - (b) in the case of a teacher in charge of a pupil referral unit, the address of the pupil referral unit;
  - (c) in the case of a body corporate, the address of the registered or principal office of the body;

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- (d) in the case of a partnership, or any other unincorporated body, the address of the principal office of the partnership or body;
  - (e) in the case of a person to whom the information or notice is given in reliance on any of subsections (4) to (6), the proper address of the body corporate, partnership or other unincorporated body in question;
  - (f) in any other case, the last known address of the person.
- (8) For the purposes of subsection (2)(d) and section 13(2) of the Legislation (Wales) Act 2019, the proper address of a person is the address provided by that person in accordance with subsection (3)(b).
- (9) In the case of—
- (a) a company registered outside the United Kingdom,
  - (b) a partnership carrying on business outside the United Kingdom, and
  - (c) any other unincorporated body with offices outside the United Kingdom,
- the references in subsection (7) to its principal office include references to its principal office within the United Kingdom (if any).

## **79 Meaning of “maintained school”, “maintained nursery school” and associated expressions**

- (1) In this Act—
- (a) “maintained school” means—
    - (i) a community, foundation or voluntary school maintained by a local authority in Wales, or
    - (ii) a community special school maintained by a local authority in Wales, other than a community special school established in a hospital;
  - (b) “maintained nursery school” means a nursery school which is maintained by a local authority in Wales and is not a special school.
- (2) In this Act, the following expressions have the same meaning as in the School Standards and Framework Act 1998 (c. 31)—
- “community school” (“*ysgol gymunedol*”)
  - “community special school” (“*ysgol arbennig gymunedol*”)
  - “foundation school” (“*ysgol sefydledig*”)
  - “voluntary aided school” (“*ysgol wirfoddol a gynorthwyir*”)
  - “voluntary controlled school” (“*ysgol wirfoddol a reolir*”)
  - “voluntary school” (“*ysgol wirfoddol*”).

## **80 Meaning of “funded non-maintained nursery education” and associated expressions**

- (1) In this Act—
- (a) “funded non-maintained nursery education” means nursery education that is provided—
    - (i) by a person other than the governing body of a maintained school or maintained nursery school,
    - (ii) under arrangements made between that person and a local authority in Wales, in the exercise of its duty to secure nursery education under

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section 118 of the School Standards and Framework Act 1998 (c. 31),  
and

(iii) in consideration of financial assistance provided by the authority  
under the arrangements;

(b) “nursery education” means full-time or part-time education suitable for  
children who have not attained compulsory school age.

(2) In this Act—

(a) a provider of funded non-maintained nursery education is a person with whom  
arrangements are made by a local authority in the exercise of its duty to secure  
nursery education under section 118 of the School Standards and Framework  
Act 1998, and

(b) a local authority that secures funded non-maintained nursery education is a  
local authority by which arrangements of that description are made for that  
education.

## **81 Meaning of “pupil referral unit” and associated expressions**

(1) In this Act, “pupil referral unit” has the meaning given by section 19A(2) of the  
Education Act 1996 (c. 56) (exceptional provision of education in pupil referral units  
or elsewhere: Wales).

(2) In this Act—

(a) the local authority, in relation to a pupil referral unit, means the local authority  
that maintains the unit, and

(b) the management committee, in relation to a pupil referral unit, means the  
committee (if there is one) established to act as the management committee for  
the unit under regulations made under Schedule 1 to the Education Act 1996.

## **82 General interpretation**

(1) In this Act—

“class” (“*dosbarth*”), in relation to a pupil, means—

(a) the teaching group in which the pupil is regularly taught, or

(b) where there are two or more such groups, the group designated by the  
head teacher of the school;

“modify” (“*addasu*”), in relation to an enactment, includes amend, repeal  
or revoke;

“regulations” (“*rheoliadau*”) means regulations made by the Welsh  
Ministers.

(2) Other expressions in this Act that are defined in, or given a meaning by, the Education  
Act 1996 (c. 56) have the same meaning as in that Act.

(3) But where for the purposes of this Act an expression is given (either by this Act or by  
the Legislation (Wales) Act 2019 (anaw 4)) a meaning different from that given to it  
for the purposes of the Education Act 1996, that meaning applies for the purposes of  
that provision instead of the one given for the purposes of the 1996 Act.

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### 83 Index of expressions defined in this Act

The Table below lists provisions in this Act that define or otherwise explain expressions used in this Act.

TABLE 1

Expression	Relevant provision
adopted curriculum (“ <i>cwricwlwm mabwysiedig</i> ”)	
(in Chapter 1 of Part 2)	section 9(3)
(in Chapters 3 and 4 of Part 2)	section 26(4)
appropriate progression (“ <i>cynnydd priodol</i> ”)	section 7(2) and (3)
area of learning and experience (“ <i>maes dysgu a phrofiad</i> ”)	section 3(1)
assessment arrangements (“ <i>trefniadau asesu</i> ”) (in Part 4)	section 56(2)
class (“ <i>dosbarth</i> ”)	section 82(1)
community school (“ <i>ysgol gymunedol</i> ”)	section 79(2)
community special school (“ <i>ysgol arbennig gymunedol</i> ”)	section 79(2)
course of study (“ <i>cwrs astudio</i> ”)	sections 25(5) and 68(2)
encompass (“ <i>cwmpasu</i> ”)	
(in relation to an area of learning and experience)	section 6(2) and (3)
(in relation to the mandatory element of Relationships and Sexuality Education)	section 8(2) and (3)
foundation school (“ <i>ysgol sefydledig</i> ”)	section 79(2)
four purposes (“ <i>pedwar diben</i> ”)	section 2(1)
funded non-maintained nursery education (“ <i>addysg feithrin a gyllidir ond nas cynhelir</i> ”)	section 80(1)(a)
local authority (“ <i>awdurdod lleol</i> ”) (in relation to a pupil referral unit)	section 81(2)(a)
local authority that secures funded non-maintained nursery education (“ <i>awdurdod lleol sy'n sicrhau addysg feithrin a gyllidir ond nas cynhelir</i> ”)	section 80(2)(b)
maintained nursery school (“ <i>ysgol feithrin a gynhelir</i> ”)	section 79(1)(b)
maintained school (“ <i>ysgol a gynhelir</i> ”)	

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(generally)	section 79(1)(a)
(in Part 5)	section 58(2)(a)
management committee (“ <i>pwyllgor rheoli</i> ”) (in relation to a pupil referral unit)	section 81(2)(b)
mandatory cross-curricular skill (“ <i>sgil trawsgwricwlaidd mandadol</i> ”)	section 4(1)
mandatory element (“ <i>elfen fandadol</i> ”)	section 3(2)
modify (“ <i>addasu</i> ”)	section 82(1)
nursery education (“ <i>addysg feithrin</i> ”)	section 80(1)(b)
Progression Code (“ <i>Cod Cynnydd</i> ”)	section 7(1)
provider of funded non-maintained nursery education (“ <i>darparwr addysg feithrin a gyllidir ond nas cynhelir</i> ”)	section 80(2)(a)
pupil referral unit (“ <i>uned cyfeirio disgyblion</i> ”)	section 81(1)
regulations (“ <i>rheoliadau</i> ”)	section 82(1)
relevant curriculum (“ <i>cwricwlwm perthnasol</i> ”) (in Part 4)	section 56(5)
relevant person (“ <i>person perthnasol</i> ”) (in Part 4)	section 56(4)
relevant school year (“ <i>blwyddyn ysgol berthnasol</i> ”)	section 31(5)
RSE Code (“ <i>Cod ACRh</i> ”)	section 8(1)
school (“ <i>ysgol</i> ”)	
(in Chapter 1 of Part 2)	section 9(2)
(in Chapters 3 and 4 of Part 2)	section 26(3)
section 13 curriculum (“ <i>cwricwlwm adran 13</i> ”)	section 13(1)
voluntary aided school (“ <i>ysgol wirfoddol a gynorthwyir</i> ”)	section 79(2)
voluntary controlled school (“ <i>ysgol wirfoddol a reolir</i> ”)	section 79(2)
voluntary school (“ <i>ysgol wirfoddol</i> ”)	section 79(2)
What Matters Code (“ <i>Cod yr Hyn sy’n Bwysig</i> ”)	section 6(1)

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## 84 Coming into force

- (1) This Part comes into force on the day after the day on which this Act receives Royal Assent.

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- (2) The other provisions of this Act come into force on whatever day or days the Welsh Ministers may appoint by order.
- (3) The Welsh Ministers may appoint different days under subsection (2) for different purposes.
- (4) An order under subsection (2)—
  - (a) is to be made by statutory instrument, and
  - (b) may make transitional, transitory or saving provision in connection with the coming into force of a provision of this Act.

## **85 Short title**

The short title of this Act is the Curriculum and Assessment (Wales) Act 2021.



**Status:**

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**Changes to legislation:**

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