



# Curriculum and Assessment (Wales) Act 2021

2021 asc 4

VALID FROM 29/09/2021

## PART 1

### BASIC CONCEPTS AND KEY DOCUMENTS

#### 1 Introduction

- (1) This Part sets out basic concepts that have effect in relation to a curriculum for any of the following—
  - (a) registered pupils at maintained schools (except those over compulsory school age) and at maintained nursery schools;
  - (b) children for whom funded non-maintained nursery education is provided;
  - (c) children for whom education is provided under arrangements made by a local authority in Wales under section 19A of the Education Act 1996 (c. 56).
- (2) This Part also includes provision about key documents that support a curriculum of that kind.
- (3) In this Part references to a curriculum are to a curriculum of that kind; and references to pupils and children are to the pupils and children referred to in subsection (1).

#### 2 The four purposes

- (1) The four purposes of a curriculum are—
  - To enable pupils and children to develop as ambitious, capable learners, ready to learn throughout their lives;
  - To enable pupils and children to develop as enterprising, creative contributors, ready to play a full part in life and work;

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To enable pupils and children to develop as ethical, informed citizens of Wales and the world;

To enable pupils and children to develop as healthy, confident individuals, ready to live fulfilling lives as valued members of society.

(2) References in this Act to the four purposes are to those purposes.

### **3 The areas of learning and experience**

(1) The areas of learning and experience for a curriculum are—

Expressive Arts  
Health and Well-being  
Humanities  
Languages, Literacy and Communication  
Mathematics and Numeracy  
Science and Technology.

(2) Within the areas of learning and experience, the following are mandatory elements—

English  
Relationships and Sexuality Education  
Religion, Values and Ethics  
Welsh.

(3) But English is not to be treated as a mandatory element, for the purposes of this Act, for a curriculum within subsection (4).

(4) A curriculum is within this subsection if it is—

- (a) a curriculum for registered pupils at a school who have not completed the school year in which the majority of the pupils in their class attain the age of 7;
- (b) a curriculum for funded non-maintained nursery education;
- (c) a curriculum for education provided under section 19A of the Education Act 1996 (c. 56) (exceptional provision of education at pupil referral units or elsewhere: Wales) for pupils or children who have not attained the age of 7.

(5) References in this Act to the areas of learning and experience are to the areas listed in subsection (1).

(6) References in this Act to the mandatory elements are to be interpreted in accordance with this section.

### **4 The mandatory cross-curricular skills**

(1) The mandatory cross-curricular skills for a curriculum are—

Digital Competence  
Literacy  
Numeracy.

(2) References in this Act to the mandatory cross-curricular skills are to the skills listed in subsection (1).

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## **5 Power to amend sections 3 and 4**

Regulations may amend sections 3 and 4.

## **6 The What Matters Code**

- (1) The Welsh Ministers must issue a code (the “What Matters Code”) that sets out key concepts for each area of learning and experience.
- (2) A curriculum does not encompass an area of learning and experience unless it encompasses those concepts as set out in the What Matters Code.
- (3) Teaching and learning does not encompass an area of learning and experience unless it encompasses those concepts as set out in the What Matters Code.
- (4) The Welsh Ministers—
  - (a) must keep the What Matters Code under review, and
  - (b) may revise it.
- (5) For further provision about the What Matters Code, see section 76.

## **7 The Progression Code**

- (1) The Welsh Ministers must issue a code (the “Progression Code”) that sets out the way in which a curriculum is to make provision for progression by pupils and children.
- (2) A curriculum does not make provision for appropriate progression unless it accords with the Progression Code.
- (3) Teaching and learning does not make provision for appropriate progression unless it accords with the Progression Code.
- (4) The Welsh Ministers—
  - (a) must keep the Progression Code under review, and
  - (b) may revise it.
- (5) For further provision about the Progression Code, see section 76.

VALID FROM 23/11/2021

## **8 The RSE Code**

- (1) The Welsh Ministers must issue a code (the “RSE Code”) setting out themes and matters to be encompassed by the mandatory element of Relationships and Sexuality Education.
- (2) A curriculum does not encompass the mandatory element of Relationships and Sexuality Education unless it accords with the provision in the RSE Code.
- (3) Teaching and learning does not encompass the mandatory element of Relationships and Sexuality Education unless it accords with the provision in the RSE Code.
- (4) For further provision about the RSE Code, see section 77.

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VALID FROM 14/06/2022

## PART 2

### CURRICULUM IN MAINTAINED SCHOOLS, MAINTAINED NURSERY SCHOOLS AND FUNDED NON-MAINTAINED NURSERY EDUCATION

VALID FROM 01/09/2022

## CHAPTER 1

### CURRICULUM DESIGN AND ADOPTION

#### *General*

#### **9 Introduction and interpretation**

- (1) This Chapter makes provision about the design and adoption of a curriculum for any of the following—
- (a) registered pupils at a maintained school, except those over compulsory school age;
  - (b) registered pupils at a maintained nursery school;
  - (c) children for whom funded non-maintained nursery education is provided.
- (2) References in this Chapter to a school are to—
- (a) a maintained school, or
  - (b) a maintained nursery school.
- (3) In this Chapter—
- (a) references to pupils, in relation to a school, are to registered pupils at the school, except those over compulsory school age;
  - (b) references to children, in relation to funded non-maintained nursery education, are to children for whom that education is provided;
  - (c) references to the adopted curriculum, in relation to a school, are to the curriculum adopted under section 11 by the head teacher and governing body of the school (and if that curriculum is revised under section 12, to the curriculum as revised);
  - (d) references to the adopted curriculum, in relation to funded non-maintained nursery education, are to the curriculum adopted under section 15 by the provider of the education (and if that curriculum is revised under section 16, to the curriculum as revised).

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### *Maintained schools and maintained nursery schools*

#### **10 Curriculum design**

- (1) The head teacher of a school must design a curriculum for the school's pupils.
- (2) That curriculum must comply with the requirements in sections 20 to 24, and any requirement imposed under section 25.

#### **11 Curriculum adoption**

- (1) The head teacher and governing body of a school must—
  - (a) adopt the curriculum designed under section 10 as the curriculum for the school's pupils, and
  - (b) publish a summary of the adopted curriculum.
- (2) But a curriculum may not be adopted under this section unless it complies with the requirements in sections 20 to 24, and any requirement imposed under section 25.

#### **12 Curriculum review and revision**

- (1) The head teacher and governing body of a school must—
  - (a) keep the adopted curriculum under review, and
  - (b) ensure that it continues to comply with the requirements in sections 20 to 24, and any requirement imposed under section 25.
- (2) In considering whether the adopted curriculum continues to comply with the requirements referred to in subsection (1)(b), the head teacher and governing body must have regard to information derived from any assessment arrangements implemented by them under regulations made under section 56.
- (3) The head teacher and governing body of a school must revise the adopted curriculum if they consider it necessary to do so to ensure that it continues to comply with the requirements referred to in subsection (1)(b).
- (4) The head teacher and governing body of a school may also revise the adopted curriculum if they consider it appropriate to do so at any time.
- (5) If the head teacher and governing body of a school revise the adopted curriculum, they must publish a summary of the revised curriculum.

### *Funded non-maintained nursery education*

#### **13 Welsh Ministers' duty to publish a curriculum**

- (1) The Welsh Ministers must publish a curriculum (the “section 13 curriculum”) that they consider suitable for children for whom funded non-maintained nursery education is provided.
- (2) The section 13 curriculum must comply with the requirements in sections 20 to 24, and any requirement imposed under section 25.

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#### **14 Review and revision of curriculum published by Welsh Ministers**

- (1) The Welsh Ministers must—
  - (a) keep the section 13 curriculum under review, and
  - (b) ensure that it continues to comply with sections 20 to 24, and any requirement imposed under section 25.
- (2) The Welsh Ministers must revise the section 13 curriculum if they consider it necessary to do so to ensure that it continues to comply with the requirements referred to in subsection (1)(b).
- (3) The Welsh Ministers may also revise the section 13 curriculum if they consider it appropriate to do so at any time.
- (4) If the Welsh Ministers revise the section 13 curriculum, they must publish the revised curriculum.

#### **15 Curriculum adoption**

- (1) A provider of funded non-maintained nursery education must—
  - (a) adopt a curriculum for children for whom that education is provided (whether the section 13 curriculum or another curriculum the provider considers suitable), and
  - (b) publish a summary of the adopted curriculum.
- (2) But a curriculum may not be adopted under this section unless it complies with the requirements in sections 20 to 24, and any requirement imposed under section 25.

#### **16 Curriculum review and revision**

- (1) A provider of funded non-maintained nursery education must—
  - (a) keep the adopted curriculum under review, and
  - (b) ensure that it continues to comply with sections 20 to 24, and any requirement imposed under section 25.
- (2) In considering whether the adopted curriculum continues to comply with the requirements referred to in subsection (1)(b), the provider must have regard to information derived from any assessment arrangements implemented by the provider under regulations made under section 56.
- (3) The provider must revise the adopted curriculum if the provider considers it necessary to do so to ensure that it continues to comply with the requirements referred to in subsection (1)(b).
- (4) The provider may also revise the adopted curriculum if the provider considers it appropriate to do so at any time.
- (5) If the provider has adopted the section 13 curriculum, and the Welsh Ministers revise that curriculum under section 14, the provider must consider whether it is appropriate to revise the adopted curriculum under subsection (4) so as to reflect the revisions made under section 14.
- (6) If the provider revises the adopted curriculum, the provider must publish a summary of the revised curriculum.

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### *Supplementary provision*

#### **17 Power to make supplementary provision about curriculum adoption and revision**

Regulations may make provision about—

- (a) steps to be taken before a curriculum is adopted under this Part (including provision about steps to be taken in order to determine whether a proposed curriculum is suitable for adoption);
- (b) the date by which a curriculum must be adopted under this Part;
- (c) additional circumstances in which an adopted curriculum must be revised.

#### **18 Power to make supplementary provision about curriculum summaries**

Regulations may make provision—

- (a) about information that is to be included in a summary of an adopted curriculum published under this Part;
- (b) about the publication of a summary of an adopted curriculum (including provision about how publication must take place, and the date by which it must take place).

VALID FROM 01/09/2022

## **CHAPTER 2**

### **CURRICULUM REQUIREMENTS**

#### *General*

#### **19 Introduction**

- (1) This Chapter sets out curriculum requirements.
- (2) References in this Chapter to a curriculum are to a curriculum for any of the following—
  - (a) registered pupils at a maintained school, except those over school age;
  - (b) registered pupils at a maintained nursery school;
  - (c) children for whom funded non-maintained nursery education is provided.
- (3) In this Chapter—
  - (a) references to pupils are to registered pupils at a maintained school or maintained nursery school, except those over compulsory school age;
  - (b) references to children, in relation to funded non-maintained nursery education, are to children for whom that education is provided.



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### *Curriculum requirements*

#### **20 The four purposes**

The curriculum must enable pupils, or children, to develop in the ways described in the four purposes.

#### **21 Progression**

The curriculum must provide for appropriate progression.

#### **22 Suitability**

The curriculum must be suitable for pupils, or children, of differing ages, abilities and aptitudes.

#### **23 Breadth and balance**

The curriculum must be broad and balanced.

#### **24 Areas of learning and experience and cross-curricular skills**

- (1) The curriculum must make provision for teaching and learning that—
  - (a) encompasses each of the areas of learning and experience, including the mandatory elements within the areas of learning and experience, and
  - (b) develops the mandatory cross-curricular skills.
- (2) The provision for teaching and learning encompassing the mandatory element of Relationships and Sexuality Education must be developmentally appropriate for pupils, or children.
- (3) The provision for teaching and learning encompassing the mandatory element of Religion, Values and Ethics must accord with Part 1 of Schedule 1, except where subsection (4) applies.
- (4) This subsection applies where the provision for teaching and learning is made—
  - (a) for pupils in a class in which the majority of the pupils are below compulsory school age at the beginning of the school year;
  - (b) for children for whom funded non-maintained nursery education is provided.
- (5) If the curriculum applies to pupils who have completed the school year in which the majority of the pupils in their class attained the age of 14, it must offer those pupils a choice of teaching and learning within each area of learning and experience.

#### **25 Power to impose further curriculum requirements**

- (1) Regulations may specify further requirements with which a curriculum for a maintained school must comply so far as it applies to pupils within subsection (2).
- (2) The pupils are those who have completed the school year in which the majority of the pupils in their class attained the age of 14, but are still of compulsory school age.



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- (3) The regulations may, among other things, specify provision—
  - (a) that must be made in a curriculum;
  - (b) that must not be made in a curriculum.
- (4) The regulations may make provision by reference to courses of study (for example, so as to require a curriculum to make provision for a minimum number of courses of study, or for courses of study specified in the regulations).
- (5) In this section, “course of study” means a course of education or training that—
  - (a) leads to a form of qualification or set of forms of qualification approved under Part 4 of the Qualifications Wales Act 2015 (anaw 5) or designated under Part 5 of that Act, or
  - (b) is designated by the Welsh Ministers under section 34(8) of that Act.

VALID FROM 01/09/2022

## CHAPTER 3

### CURRICULUM IMPLEMENTATION

#### *General*

#### **26 Introduction and interpretation**

- (1) This Chapter makes provision about the implementation of a curriculum for any of the following—
  - (a) registered pupils at a maintained school, except those over compulsory school age;
  - (b) registered pupils at a maintained nursery school;
  - (c) children for whom funded non-maintained nursery education is provided.
- (2) Chapter 4 sets out exceptions to the curriculum implementation duties in this Chapter.
- (3) References in this Chapter and in Chapter 4 to a school are to—
  - (a) a maintained school, or
  - (b) a maintained nursery school.
- (4) In this Chapter and in Chapter 4—
  - (a) references to pupils, in relation to a school, are to registered pupils at the school, except those over compulsory school age;
  - (b) references to children, in relation to funded non-maintained nursery education, are to children for whom that education is provided;
  - (c) references to the adopted curriculum, in relation to a school, are to the curriculum adopted under section 11 by the head teacher and governing body of the school (and if that curriculum is revised under section 12, to the curriculum as revised);

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- (d) references to the adopted curriculum, in relation to funded non-maintained nursery education, are to the curriculum adopted under section 15 by the provider of the education (and if that curriculum is revised under section 16, to the curriculum as revised).

*Maintained schools and maintained nursery schools*

**27 Duty to ensure implementation of adopted curriculum**

- (1) The head teacher of a school must ensure that the adopted curriculum is implemented for the school's pupils in accordance with sections 28, 29 and 30.
- (2) The governing body of a school must exercise its functions with a view to ensuring that the adopted curriculum is implemented for the school's pupils in accordance with sections 28, 29 and 30.

**28 General implementation requirements**

The adopted curriculum must be implemented in a way that—

- (a) enables each pupil to develop in the ways described in the four purposes,
- (b) secures teaching and learning that offers appropriate progression for each pupil,
- (c) is suitable for each pupil's age, ability and aptitude,
- (d) takes account of each pupil's additional learning needs (if any), and
- (e) secures broad and balanced teaching and learning for each pupil.

**29 Further implementation requirements for pupils aged 3 to 14**

- (1) The adopted curriculum must be implemented in accordance with subsection (2) for pupils who have not yet completed the school year in which the majority of the pupils in their class attain the age of 14.
- (2) The adopted curriculum must be implemented in a way that secures teaching and learning for each pupil that—
  - (a) encompasses the areas of learning and experience (including the mandatory elements within those areas), and
  - (b) develops the mandatory cross-curricular skills.
- (3) The teaching and learning secured under subsection (2)—
  - (a) in respect of the mandatory element of Relationships and Sexuality Education, must be suitable for the pupil's stage of development, and
  - (b) in respect of the mandatory element of Religion, Values and Ethics, must accord with Part 2 of Schedule 1, except where subsection (4) applies.
- (4) This subsection applies where the teaching and learning is for pupils in a class in which the majority of the pupils are below compulsory school age at the beginning of the school year.

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PROSPECTIVE

### **30 Further implementation requirements for pupils aged 14 to 16**

- (1) The adopted curriculum must be implemented in accordance with subsection (2) for pupils who have completed the school year in which the majority of the pupils in their class attained the age of 14.
- (2) The adopted curriculum must be implemented in a way that—
  - (a) secures teaching and learning for each pupil that encompasses the mandatory elements within the areas of learning and experience, and
  - (b) secures other teaching and learning for each pupil in each area of learning and experience.
- (3) The teaching and learning secured under subsection (2) must develop the mandatory cross-curricular skills.
- (4) The teaching and learning secured under subsection (2) must include—
  - (a) teaching and learning in respect of any provision made in the curriculum, so far as it applies to the pupil, by virtue of regulations made under section 25, and
  - (b) the teaching and learning chosen by the pupil by virtue of section 24.
- (5) For an exception to the duty to secure the teaching and learning chosen by the pupil, see section 31.
- (6) The teaching and learning secured under subsection (2)—
  - (a) in respect of the mandatory element of Relationships and Sexuality Education, must be suitable for the pupil's stage of development, and
  - (b) in respect of the mandatory element of Religion, Values and Ethics, must accord with Part 2 of Schedule 1.

PROSPECTIVE

### **31 Power to disapply duty to implement pupil choice**

- (1) This section applies to the teaching and learning chosen by a pupil by virtue of section 24.
- (2) If the head teacher of a maintained school is satisfied that a relevant ground applies, the head teacher may determine that the duty to secure the teaching and learning does not apply.
- (3) In the case of a determination made before the pupil begins the relevant school year, the relevant grounds are that—
  - (a) the teaching and learning is not suitable for the pupil, due to the pupil's level of educational attainment;
  - (b) it is not reasonably practicable to secure the teaching and learning for the pupil, due to other choices made by the pupil by virtue of section 24;

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- (c) the amount of time likely to be spent travelling to the place at which the teaching is likely to be delivered would be detrimental to the pupil's education;
  - (d) disproportionate expenditure would be incurred if the teaching and learning were to be secured for the pupil;
  - (e) the pupil or another person's health or safety would be placed unacceptably at risk if the teaching and learning were to be secured for the pupil.
- (4) In the case of a determination made after the pupil has begun the relevant school year, the relevant grounds are that—
- (a) disproportionate expenditure would be incurred if the teaching and learning were to continue to be secured for the pupil;
  - (b) the pupil's or another person's health or safety would be placed unacceptably at risk if the teaching and learning were to continue to be secured for the pupil.
- (5) In subsections (3) and (4), the “relevant school year” is the school year in which the majority of the pupils in the pupil's class will attain the age of 15.
- (6) Regulations may amend subsections (3) and (4).

PROSPECTIVE

### **32 Power to disapply duty to implement pupil choice: supplementary**

- (1) A head teacher who makes a determination under section 31 must give the information described in subsection (2) to—
- (a) the pupil to whom the determination relates, and
  - (b) the pupil's parent.
- (2) The information is—
- (a) the fact that the determination has been made,
  - (b) the effect of the determination,
  - (c) the head teacher's reasons for making the determination,
  - (d) information about the teaching and learning that will be secured for the pupil in place of the teaching and learning in respect of which the determination has been made, and
  - (e) information about the right to request a review, or make an appeal, under section 33.
- (3) The information must be given in writing.
- (4) The duty in subsection (1)(a) does not apply if the head teacher considers that the pupil in question does not have the capacity to understand—
- (a) the information that would be given, or
  - (b) what it means to exercise the rights conferred by section 33.
- (5) Regulations may make further provision in connection with determinations under section 31.

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PROSPECTIVE

### 33 Reviews and appeals relating to pupil choice

- (1) A pupil or parent who is given information about a determination made by a head teacher under section 31—
  - (a) may require the head teacher to review the determination, and
  - (b) if dissatisfied with the head teacher's decision on the review, may appeal to the governing body of the school against that decision.
- (2) On a review, the head teacher—
  - (a) may confirm, vary or revoke the determination, and
  - (b) must give written notice of that decision to—
    - (i) the pupil,
    - (ii) the pupil's parent, and
    - (iii) the governing body.
- (3) But subsection (2)(b)(i) does not apply if the head teacher considers that the pupil does not have the capacity to understand—
  - (a) the information that would be given, or
  - (b) what it means to exercise the right conferred by subsection (1)(b).
- (4) On an appeal, the governing body—
  - (a) may confirm the head teacher's decision on the review or direct the head teacher to take the action that it considers appropriate, and
  - (b) must give written notice of its decision to—
    - (i) the pupil,
    - (ii) the pupil's parent, and
    - (iii) the head teacher.
- (5) But subsection (4)(b)(i) does not apply if the governing body considers that the pupil does not have the capacity to understand the information that would be given.
- (6) The head teacher must comply with a direction given under subsection (4)(a).
- (7) The head teacher and governing body of a school within subsection (8) must publish information setting out a procedure for reviews and appeals under this section.
- (8) A school is within this subsection if the adopted curriculum applies to pupils who have completed the school year in which the majority of the pupils in their class attained the age of 14.

#### *Funded non-maintained nursery education*

### 34 Duty to ensure implementation of adopted curriculum

- (1) A provider of funded non-maintained nursery education must ensure that the adopted curriculum is implemented for children in accordance with sections 35 and 36.

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- (2) A local authority that secures funded non-maintained nursery education must exercise its functions with a view to ensuring that the adopted curriculum is implemented in accordance with sections 35 and 36 for children for whom that education is provided.

### **35 General implementation requirements**

The adopted curriculum must be implemented in a way that—

- (a) enables each child to develop in the ways described in the four purposes,
- (b) secures teaching and learning that offers appropriate progression for each child,
- (c) is suitable for each child's age, ability and aptitude,
- (d) takes account of each child's additional learning needs (if any), and
- (e) secures broad and balanced teaching and learning for each child.

### **36 Requirements relating to areas of learning and experience and cross-curricular skills**

- (1) The adopted curriculum must be implemented in a way that secures teaching and learning for each child that—
  - (a) encompasses the areas of learning and experience (including the mandatory elements within those areas), and
  - (b) develops the mandatory cross-curricular skills.
- (2) Teaching and learning secured for a child under subsection (1) in respect of the mandatory element of Relationships and Sexuality Education must be suitable for the child's stage of development.

## **CHAPTER 4**

### **CURRICULUM IMPLEMENTATION: EXCEPTIONS**

VALID FROM 01/09/2022

### **37 Introduction**

- (1) This Chapter sets out exceptions to the curriculum implementation duties in Chapter 3.
- (2) Section 26 explains the meaning of certain expressions used in this Chapter.

VALID FROM 01/09/2022

### **38 Development work and experiments**

- (1) The Welsh Ministers may give a direction under this section in order to enable development work or experiments to be carried out.

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- (2) A direction may be given in relation to—
  - (a) a school specified in the direction;
  - (b) schools of a description specified in the direction;
  - (c) funded non-maintained nursery education of a description specified in the direction.
- (3) A direction given in relation to a school must be given—
  - (a) to the head teacher and the governing body of the school, and
  - (b) to the local authority that maintains the school (unless the school is a foundation or voluntary aided school).
- (4) A direction given in relation to a school may, for a period specified in the direction—
  - (a) disapply sections 27, 28, 29 and 30, or any of those sections, in relation to the school;
  - (b) provide that sections 27, 28, 29 and 30, or any of those sections, apply in relation to the school with the modifications specified in the direction.
- (5) A direction given in relation to a school may also require—
  - (a) the head teacher and the governing body of the school, and
  - (b) the local authority that maintains the school (unless the school is a foundation or voluntary aided school),to report to the Welsh Ministers on any matters specified in the direction at times or intervals specified in the direction.
- (6) A direction given in relation to funded non-maintained nursery education must be given to—
  - (a) the provider of the education, and
  - (b) the local authority that secures the education.
- (7) A direction given in relation to funded non-maintained nursery education may, for a period specified in the direction—
  - (a) disapply sections 34, 35 and 36, or any of those sections, in relation to that education;
  - (b) provide that sections 34, 35 and 36, or any of those sections, apply in relation to that education with the modifications specified in the direction.
- (8) A direction given in relation to funded non-maintained nursery education may also require—
  - (a) the provider of the education, and
  - (b) the local authority that secures the education,to report to the Welsh Ministers on any matters specified in the direction at times or intervals specified in the direction.
- (9) A person to whom a direction is given under this section must comply with the direction.



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VALID FROM 01/09/2022

### 39 Development work and experiments: conditions

- (1) The Welsh Ministers may give a direction under section 38 only if the conditions in this section are met.
- (2) The first condition is that the Welsh Ministers are satisfied that the curriculum that will be implemented for the pupils or children as a result of the direction will—
  - (a) enable each pupil or child to develop in the ways described in the four purposes,
  - (b) secure teaching and learning that offers appropriate progression for each pupil or child,
  - (c) be suitable for each pupil or child's age, ability and aptitude,
  - (d) take account of each pupil's or child's additional learning needs (if any), and
  - (e) secure broad and balanced teaching and learning for each pupil or child.
- (3) The second condition, in the case of a direction relating to a community school, voluntary controlled school, community special school or maintained nursery school, is that the direction is given—
  - (a) on an application made by the governing body with the local authority's agreement,
  - (b) on an application made by the local authority with the governing body's agreement, or
  - (c) on a proposal made by the Welsh Ministers with the agreement of the governing body and the local authority.
- (4) The second condition, in the case of a direction relating to a foundation school or voluntary aided school, is that the direction is given—
  - (a) on an application made by the governing body, or
  - (b) with the governing body's agreement.
- (5) The second condition, in the case of a direction relating to funded non-maintained nursery education, is that the direction is given—
  - (a) on an application made by the local authority with the agreement of the provider of the education, or
  - (b) on a proposal made by the Welsh Ministers with the agreement of the local authority and the provider of the education.
- (6) In this section—
  - (a) references to the local authority, in relation to a school, are to the local authority that maintains the school;
  - (b) references to the local authority, in relation to funded non-maintained nursery education, are to the local authority that secures the education.

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VALID FROM 01/09/2022

#### 40 Development work and experiments: supplementary

- (1) This section applies in relation to a direction given under section 38.
- (2) The direction must be given in writing.
- (3) The Welsh Ministers must publish the direction.
- (4) Where the direction relates to a school—
  - (a) the head teacher and governing body of the school must publish a summary of the curriculum that will be implemented as a result of the direction, and
  - (b) section 12 applies in relation to the school only to the extent that the exercise of functions under that section is compatible with the direction.
- (5) Where the direction relates to funded non-maintained nursery education—
  - (a) the provider of the education must publish a summary of the curriculum that will be implemented as a result of the direction, and
  - (b) section 16 applies in relation to the education only to the extent that the exercise of functions under that section is compatible with the direction.

VALID FROM 01/09/2022

#### 41 Pupils and children with additional learning needs

- (1) The additional learning provision described in an individual development plan prepared or maintained by a local authority under Part 2 of the Additional Learning Needs and Education Tribunal (Wales) Act 2018 (anaw 2) may include provision—
  - (a) that disapplies sections 27, 28, 29 and 30, or any of those sections, in relation to a pupil;
  - (b) that applies sections 27, 28, 29 and 30, or any of those sections, in relation to a pupil with the modifications specified in the plan;
  - (c) that disapplies sections 34, 35 and 36, or any of those sections, in relation to a child;
  - (d) that applies sections 34, 35 and 36, or any of those sections, in relation to a child with the modifications specified in the plan.
- (2) The special educational provision specified in an EHC plan under section 37 of the Children and Families Act 2014 (c. 6) (education, health and care plans) may include provision—
  - (a) that disapplies sections 27, 28, 29 and 30, or any of those sections, in relation to a pupil;
  - (b) that applies sections 27, 28, 29 and 30, or any of those sections, in relation to a pupil with the modifications specified in the plan;
  - (c) that disapplies sections 34, 35 and 36, or any of those sections, in relation to a child;
  - (d) that applies sections 34, 35 and 36, or any of those sections, in relation to a child with the modifications specified in the plan.

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- (3) But an individual development plan or EHC plan may include provision referred to in subsection (1) or (2) only if the local authority is satisfied that the curriculum that will be implemented for the child as a result of the disapplication or modification will—
- (a) enable the pupil or child to develop in the ways described in the four purposes,
  - (b) secure teaching and learning that offers appropriate progression for the pupil or child,
  - (c) be suitable for the pupil or child's age, ability and aptitude, and
  - (d) secure broad and balanced teaching and learning for the pupil or child.
- (4) Regulations may specify further conditions that must be satisfied before an individual development plan or EHC plan may include provision referred to in subsection (1) or (2).
- (5) In this section, the reference to the local authority is to the local authority that prepares or maintains the individual development plan or that secures the preparation, amendment or replacement of the EHC plan.

#### **42 Temporary exceptions for individual pupils and children**

- (1) Regulations may enable the head teacher of a maintained school or maintained nursery school to determine, in cases or circumstances specified in the regulations—
- (a) that sections 27, 28, 29 and 30, or any of those sections, are to be disappplied in relation to a registered pupil at the school during the period specified in the determination, or
  - (b) that sections 27, 28, 29 and 30, or any of those sections, are to be applied in relation to a registered pupil at the school, during the period specified in the determination, with the modifications specified in the determination.
- (2) Regulations may enable a provider of funded non-maintained nursery education to determine, in cases or circumstances specified in the regulations—
- (a) that sections 34, 35 and 36, or any of those sections, are to be disappplied, during the period specified in the determination, in relation to a child for whom the education is provided, or
  - (b) that sections 34, 35 and 36, or any of those sections, are to be applied in relation to such a child, during the period specified in the determination, with the modifications specified in the determination.
- (3) If regulations are made under this section, they must provide that a person may make a determination under the regulations only if satisfied that the curriculum that will be implemented for the pupil or child as a result of the determination will—
- (a) enable the pupil or child to develop in the ways described in the four purposes,
  - (b) secure teaching and learning that offers appropriate progression for each pupil or child,
  - (c) be suitable for the pupil or child's age, ability and aptitude,
  - (d) take account of the pupil's or child's additional learning needs (if any), and
  - (e) secure broad and balanced teaching and learning for the pupil or child.

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- (4) Regulations made under this section may specify further conditions that must be met before a determination may be made under the regulations.

#### **43 Temporary exceptions for individual pupils and children: supplementary**

- (1) This section makes further provision about regulations made under section 42.
- (2) The regulations must not allow a determination to be made under the regulations on the grounds that a pupil or child has, or may have, additional learning needs (see, instead, section 41).
- (3) The regulations must specify that that the operative period of a determination made under the regulations is either—
- (a) a fixed period specified in the determination that does not exceed 6 months, or
  - (b) a period that must be brought to an end (in accordance with the regulations) no later than 6 months from its beginning.
- (4) But the regulations may specify a different operative period for a determination if that operative period is to begin—
- (a) immediately after the end of the operative period of a previous determination, or
  - (b) before the end of a period, specified in the regulations, that begins with the end of the operative period of a previous determination.
- (5) The regulations may enable a person who makes a determination under the regulations—
- (a) to vary the determination, except in relation to its operative period, or
  - (b) to revoke the determination.
- (6) The regulations may specify—
- (a) cases or circumstances in which a determination made under the regulations may be varied or revoked;
  - (b) conditions which must be met before a determination made under the regulations may be varied or revoked.
- (7) In this section, the “operative period” of a determination means the period for which the determination has effect.

VALID FROM 01/09/2022

#### **44 Provision of information about temporary exceptions**

- (1) A head teacher who makes, varies or revokes a determination under regulations made under section 42 must give the information described in subsections (3) and (4), in writing, to—
- (a) the pupil to whom the determination relates,
  - (b) the pupil's parent,
  - (c) the governing body of the school, and
  - (d) the local authority that maintains the school.

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- (2) A provider of funded non-maintained nursery education who makes, varies or revokes a determination under regulations made under section 42 must give the information described in subsections (3) and (4), in writing, to—
- (a) the parent of the child to whom the determination relates, and
  - (b) the local authority that secures the education.
- (3) The information is—
- (a) the fact that the determination has been made, varied or revoked;
  - (b) the effect of the determination, variation or revocation;
  - (c) the reasons for making, varying or revoking the determination;
  - (d) information about—
    - (i) the right to make an appeal under section 45 (in the case of a determination that relates to a pupil);
    - (ii) the right to make an appeal under section 46 (in the case of a determination that relates to any other child).
- (4) Where a determination is made or varied, the information must also include—
- (a) a description of the provision that will be made for the pupil or child's education during the period specified in the determination;
  - (b) a description of the way in which the head teacher or provider proposes to ensure that the adopted curriculum is implemented for the pupil or child at the end of that period.
- (5) The duty in subsection (1)(a) does not apply if the head teacher considers that the pupil does not have the capacity to understand—
- (a) the information that would be given, or
  - (b) what it means to exercise the right conferred by section 45.

VALID FROM 01/09/2022

#### **45 Appeals about temporary exceptions for individual pupils**

- (1) This section applies where—
- (a) the head teacher of a school makes, varies or revokes a determination relating to a pupil under regulations made under section 42, or
  - (b) a pupil, or a pupil's parent, asks the head teacher of a school to make a determination under those regulations in relation to the pupil, but no determination is made.
- (2) Each of the following may appeal to the governing body of the school—
- (a) the pupil;
  - (b) the pupil's parent.
- (3) Subsection (2)(a) does not apply if the governing body considers that the pupil in question does not have the capacity to understand what it means to exercise the right conferred by this section.
- (4) If an appeal is made under this section, the governing body may—

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- (a) direct the head teacher, in writing, to take the action that it considers appropriate in respect of the determination referred to in subsection (1)(a) or the request referred to in subsection (1)(b), or
  - (b) inform the head teacher, in writing, that no such direction will be given.
- (5) The governing body must give written notice of its decision to—
- (a) the pupil, and
  - (b) the pupil's parent.
- (6) Subsection (5)(a) does not apply if the governing body considers that the pupil in question does not have the capacity to understand the information that would be given.
- (7) The head teacher must comply with a direction given under subsection (4).
- (8) Regulations may make further provision in connection with appeals under this section.

VALID FROM 01/09/2022

#### **46 Appeals about temporary exceptions for individual children**

- (1) This section applies where—
- (a) a provider of funded non-maintained nursery education makes, varies or revokes a determination under regulations made under section 42 in relation to a child for whom the education is provided, or
  - (b) the parent of a child for whom funded non-maintained nursery education is provided asks the provider of the education to make a determination under those regulations in relation to the child, but no determination is made.
- (2) The child's parent may appeal to the local authority that has secured the education.
- (3) If an appeal is made under this section, the local authority may—
- (a) direct the provider, in writing, to take the action that the local authority considers appropriate in respect of the determination referred to in subsection (1)(a) or the request referred to in subsection (1)(b), or
  - (b) inform the provider, in writing, that no such direction will be given.
- (4) The local authority must give written notice of its decision to the child's parent.
- (5) The provider must comply with a direction given under subsection (3).
- (6) Regulations may make further provision in connection with appeals under this section.

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VALID FROM 01/09/2022

**47 Exception for pupils for whom arrangements are made under section 19A of the Education Act 1996**

Sections 27, 28, 29 and 30 do not apply in relation to pupils for whom arrangements are made under section 19A of the Education Act 1996 (c. 56) (see, instead, Part 3).

VALID FROM 01/09/2022

**48 Power to make provision for further exceptions**

(1) Regulations may—

- (a) disapply sections 27, 28, 29 and 30, or any of those sections, in cases or circumstances specified in the regulations;
- (b) provide that sections 27, 28, 29 and 30, or any of those sections, apply with the modifications specified in the regulations in cases or circumstances specified in the regulations;
- (c) disapply sections 34, 35 and 36, or any of those sections, in cases or circumstances specified in the regulations;
- (d) provide that sections 34, 35 and 36, or any of those sections, apply with the modifications specified in the regulations in cases or circumstances specified in the regulations.

(2) Regulations under this section may confer a discretion on a person.

VALID FROM 01/09/2022

**PART 3**

**CURRICULUM FOR EXCEPTIONAL PROVISION OF  
 EDUCATION IN PUPIL REFERRAL UNITS OR ELSEWHERE**

*General*

**49 Introduction**

- (1) This Part makes provision about a curriculum for education provided under section 19A of the Education Act 1996 (c. 56) (exceptional provision of education at pupil referral units or elsewhere: Wales).
- (2) Sections 50 to 52 apply to education provided at pupil referral units.
- (3) Sections 53 to 55 apply to education provided otherwise than at pupil referral units.



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- (4) References in this Part to pupils, in relation to a pupil referral unit, are to registered pupils at the unit, except those over compulsory school age.

### *Pupil referral units*

## **50 Curriculum requirements**

- (1) The local authority, the management committee (if there is one) and the teacher in charge of a pupil referral unit must exercise their functions with a view to ensuring that there is a curriculum for the unit that complies with the requirements in subsections (2) to (5).
- (2) The first requirement is that the curriculum must—
- (a) enable pupils to develop in the ways described in the four purposes,
  - (b) provide for appropriate progression for pupils,
  - (c) be suitable for pupils of differing ages, abilities and aptitudes, and
  - (d) be broad and balanced, so far as is appropriate for pupils.
- (3) The second requirement is that the curriculum must make provision for teaching and learning that—
- (a) encompasses the Health and Well-being area of learning and experience,
  - (b) encompasses the mandatory element of Relationships and Sexuality Education, and
  - (c) develops the mandatory cross-curricular skills.
- (4) The third requirement is that the provision made under subsection (3)(b) must be developmentally appropriate for pupils.
- (5) The fourth requirement is that the curriculum must make provision, if it is reasonably possible and appropriate to do so, for teaching and learning—
- (a) in the other areas of learning and experience, and
  - (b) in the other mandatory elements.
- (6) The teacher in charge of a pupil referral unit must publish a summary of the curriculum for the unit, or arrange for it to be published.

## **51 Curriculum review and revision**

- (1) The local authority, the management committee (if there is one) and the teacher in charge of a pupil referral unit must—
- (a) keep the curriculum for the unit under review, and
  - (b) ensure that it continues to comply with the requirements in section 50.
- (2) In considering whether the curriculum continues to comply with the requirements in section 50, they must have regard to information derived from any assessment arrangements implemented by them under regulations made under section 56.
- (3) They must revise the curriculum if they consider it necessary to do so to ensure that it continues to comply with the requirements in section 50.
- (4) They may also revise the curriculum at any time they consider it appropriate to do so.

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- (5) If the curriculum is revised, the teacher in charge of the unit must publish a summary of the revised curriculum, or arrange for it to be published.

## 52 Curriculum implementation

- (1) The teacher in charge of a pupil referral unit must ensure that the curriculum for the unit is implemented in a way that—
- (a) enables each pupil to develop in the ways described in the four purposes,
  - (b) secures teaching and learning that offers appropriate progression for each pupil,
  - (c) is suitable for each pupil's age, ability and aptitude,
  - (d) takes account of each pupil's additional learning needs (if any), and
  - (e) secures broad and balanced teaching and learning for each pupil.
- (2) The teacher in charge of a pupil referral unit must ensure that the curriculum for the unit is implemented in a way that secures teaching and learning for each pupil that—
- (a) encompasses the Health and Well-being area of learning and experience,
  - (b) encompasses the mandatory element of Relationships and Sexuality Education, and
  - (c) develops the mandatory cross-curricular skills.
- (3) The teacher in charge of a pupil referral unit must ensure that the teaching and learning secured under subsection (2)(b) is suitable for each pupil's stage of development.
- (4) The teacher in charge of a pupil referral unit must—
- (a) consider what teaching and learning it would be appropriate to provide for each pupil in the other areas of learning and experience and the other mandatory elements for which the curriculum makes provision, and
  - (b) ensure, as far as reasonably possible, that the teaching and learning is provided for the pupil.
- (5) The local authority and the management committee (if there is one) for a pupil referral unit must exercise their functions with a view to ensuring that the curriculum for the unit is implemented for pupils in accordance with this section.

*Other education provided under section 19A of the Education Act 1996*

## 53 Curriculum requirements

- (1) A local authority that makes arrangements under section 19A of the Education Act 1996 (c. 56) to provide education for a child otherwise than at a pupil referral unit must ensure that the arrangements secure a curriculum for the child that complies with the requirements in subsections (2) to (5).
- (2) The first requirement is that the curriculum must—
- (a) enable the child to develop in the ways described in the four purposes,
  - (b) provide for appropriate progression for the child,
  - (c) be suitable for the child's age, ability and aptitude, and
  - (d) be broad and balanced, so far as is appropriate for the child.

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- (3) The second requirement is that the curriculum must make provision, so far as is appropriate for the child, for teaching and learning that—
  - (a) encompasses the Health and Well-being area of learning and experience,
  - (b) encompasses the mandatory element of Relationships and Sexuality Education, and
  - (c) develops the mandatory cross-curricular skills.
- (4) The third requirement is that the provision made under subsection (3)(b) must be suitable for the child's stage of development.
- (5) The fourth requirement is that the curriculum must make provision, if it is reasonably possible and appropriate to do so, for teaching and learning—
  - (a) in the other areas of learning and experience, and
  - (b) in the other mandatory elements.

#### **54 Review and revision**

- (1) A local authority that makes arrangements under section 19A of the Education Act 1996 (c. 56) to provide education for a child otherwise than at a pupil referral unit must—
  - (a) keep the arrangements under review, and
  - (b) ensure that they continue to secure a curriculum for the child that complies with the requirements in section 53.
- (2) In considering whether the arrangements continue to secure a curriculum for the child that complies with those requirements, the local authority must have regard to information derived from any assessment arrangements implemented in relation to the child under regulations made under section 56.
- (3) The local authority must revise the arrangements if they consider it necessary to do so to ensure that they continue to secure a curriculum for the child that continues to comply with the requirements in section 53.

#### **55 Curriculum implementation**

- (1) A local authority that makes arrangements under section 19A of the Education Act 1996 (c. 56) to provide education for a child otherwise than at a pupil referral unit must ensure that the arrangements ensure that the curriculum for the child is implemented in a way that—
  - (a) enables the child to develop in the ways described in the four purposes,
  - (b) secures teaching and learning that offers appropriate progression for the child,
  - (c) is suitable for the child's age, ability and aptitude,
  - (d) takes account of the child's additional learning needs (if any), and
  - (e) secures teaching and learning that is broad and balanced, so far as is appropriate for the child.
- (2) The local authority must also ensure that the arrangements ensure the teaching and learning for which the curriculum must make provision under section 53(3), (4) and (5).

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VALID FROM 11/01/2022

## PART 4

### ASSESSMENT AND PROGRESSION

#### **56 Duty to make provision about assessment arrangements**

- (1) Regulations must make provision about assessment arrangements.
- (2) Assessment arrangements are arrangements for assessing, in relation to the relevant curriculum—
  - (a) the progress made by pupils and children,
  - (b) the next steps in their progression, and
  - (c) the teaching and learning needed to make that progress.
- (3) Regulations under this section may (among other things)—
  - (a) require a relevant person to make and implement assessment arrangements;
  - (b) specify when and how those arrangements are to be made and implemented;
  - (c) specify the assessment arrangements, or criteria that the arrangements must meet;
  - (d) require the effectiveness of assessment arrangements to be evaluated;
  - (e) make provision about how that evaluation is to be carried out;
  - (f) require assessment arrangements to be kept under review, and to be revised;
  - (g) require a relevant person to provide information, as specified in the regulations, about assessment arrangements made or implemented by that person, and about the matters described in subsection (2).
- (4) In this section, “relevant person” means—
  - (a) the head teacher of a maintained school or a maintained nursery school;
  - (b) the governing body of a maintained school or a maintained nursery school;
  - (c) a provider of funded non-maintained nursery education;
  - (d) the teacher in charge of a pupil referral unit;
  - (e) the management committee of a pupil referral unit;
  - (f) a person who provides teaching and learning for a child otherwise than at a maintained school, maintained nursery school or pupil referral unit by virtue of arrangements made under section 19A of the Education Act 1996 (c. 56).
- (5) In this section, “relevant curriculum”—
  - (a) in relation to a maintained school or maintained nursery school, means the curriculum adopted under section 11 by the head teacher and governing body of the school (and if that curriculum is revised under section 12, means that curriculum as revised);
  - (b) in relation to funded non-maintained nursery education, means the curriculum adopted under section 15 by the person by whom the education is provided (and if that curriculum is revised under section 16, means that curriculum as revised);

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- (c) in relation to a pupil referral unit, means the curriculum for the unit referred to in section 50 (and if that curriculum is revised under section 51, means that curriculum as revised);
  - (d) in relation to education provided for a child otherwise than at a maintained school, maintained nursery school or pupil referral unit by virtue of arrangements made under section 19A of the Education Act 1996, means the curriculum for the child referred to in section 53.
- (6) Regulations under this section may—
- (a) specify assessment arrangements to be made and implemented by reference to a document published from time to time by any person;
  - (b) make provision for assessment arrangements to be implemented in accordance with a document published from time to time by any person.

### **57 Promoting and maintaining understanding of progression**

- (1) The Welsh Ministers may direct a relevant person (or relevant persons of a specified description) to take specified steps with a view to promoting and maintaining understanding of progression in the context of a relevant curriculum.
- (2) A relevant person to whom a direction is given under this section must comply with the direction.
- (3) In this section—
  - (a) “relevant curriculum” and “relevant person” have the meaning given in section 56, and
  - (b) “specified” means specified in a direction under this section.

PROSPECTIVE

## **PART 5**

### **CURRICULUM: POST COMPULSORY EDUCATION IN MAINTAINED SCHOOLS**

#### **58 Introduction and interpretation**

- (1) This Part makes provision about a curriculum for registered pupils at maintained schools who are above compulsory school age.
- (2) In this Part—
  - (a) references to a maintained school are to a maintained school at which pupils above compulsory school age are registered;
  - (b) references to pupils, in relation to a maintained school, are to registered pupils at the school who are above compulsory school age;
  - (c) references to a curriculum are to a curriculum for those pupils.

#### **59 General curriculum requirement**

- (1) The head teacher and governing body of a maintained school must ensure that the curriculum for the school's pupils complies with the requirement in subsection (2).

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- (2) The requirement is that the curriculum is a balanced and broadly based curriculum that—
  - (a) promotes the spiritual, moral, cultural, mental and physical development of the pupils and of society, and
  - (b) prepares the pupils for the opportunities, responsibilities and experiences of later life.
- (3) A local authority in Wales must exercise its functions with a view to ensuring that the curriculum complies with the requirement in subsection (2) in every maintained school that it maintains.
- (4) The Welsh Ministers must exercise their functions with a view to ensuring that the curriculum complies with the requirement in subsection (2) in every maintained school.

## **60 Curriculum requirement: Relationships and Sexuality Education**

- (1) The head teacher of a maintained school must ensure that teaching and learning in Relationships and Sexuality Education is provided at the school for pupils who request it.
- (2) The head teacher is to be treated as complying with subsection (1) if the teaching and learning is provided at the school at a time or times which are convenient for the majority of the pupils who have requested it.
- (3) The governing body of a maintained school must exercise its functions with a view to ensuring that teaching and learning in Relationships and Sexuality Education is provided in accordance with this section.

## **61 Curriculum requirement: Religion, Values and Ethics**

- (1) The head teacher of a maintained school must ensure that teaching and learning in Religion, Values and Ethics is provided at the school for pupils who request it.
- (2) The head teacher is to be treated as complying with subsection (1) if the teaching and learning is provided at the school at a time or times which are convenient for the majority of the pupils who have requested it.
- (3) Teaching and learning provided under this section—
  - (a) must reflect the fact that the religious traditions in Wales are mainly Christian, while taking account of the teaching and practices of the other principal religions represented in Wales, and
  - (b) must also reflect the fact that a range of non-religious philosophical convictions are held in Wales.
- (4) In subsection (3), the reference to “philosophical convictions” is to philosophical convictions within the meaning of Article 2 of the First Protocol to the European Convention on Human Rights.
- (5) The governing body of a maintained school must exercise its functions with a view to ensuring that teaching and learning in Religion, Values and Ethics is provided in accordance with this section.
- (6) In this section—



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“the European Convention on Human Rights” (“*y Confensiwn Ewropeaidd ar Hawliau Dynol*”) means the Convention for the Protection of Human Rights and Fundamental Freedoms, agreed by the Council of Europe at Rome on 4th November 1950, as it has effect for the time being in relation to the United Kingdom;

“the First Protocol” (“*y Protocol Cyntaf*”), in relation to that Convention, means the protocol to the Convention agreed at Paris on 20th March 1952.

## 62 Further curriculum requirements

See sections 33A to 33O of the Learning and Skills Act 2000 (c. 21) (local curricula for students aged 16 to 18) for further provision about a curriculum for pupils at maintained schools who are above compulsory school age.

VALID FROM 14/06/2022

## PART 6

### SUPPLEMENTARY

VALID FROM 01/09/2022

#### *Mental health and emotional well-being*

### 63 Duty to have regard to mental health and emotional well-being of children and young persons

- (1) A person within subsection (2) must, in exercising any function conferred by or under this Act, have regard to the mental health and emotional well-being of children and young persons likely to be affected by the exercise of the function.
- (2) The persons are—
  - (a) the head teacher of a maintained school or a maintained nursery school;
  - (b) the governing body of a maintained school or a maintained nursery school;
  - (c) a provider of funded non-maintained nursery education;
  - (d) the teacher in charge of a pupil referral unit;
  - (e) the management committee for a pupil referral unit;
  - (f) a person who provides teaching and learning for a child otherwise than at a maintained school, maintained nursery school or pupil referral unit by virtue of arrangements made under section 19A of the Education Act 1996 (c. 56);
  - (g) a local authority in Wales.



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VALID FROM 01/09/2022

### *UN Conventions*

#### **64 Duty to promote knowledge and understanding of UN Conventions on the rights of children and persons with disabilities**

- (1) The head teacher and governing body of a maintained school or a maintained nursery school must promote knowledge and understanding of Part 1 of the UNCRC, and of the UNCRPD, among those who provide teaching and learning in respect of the school's curriculum.
- (2) A provider of funded non-maintained nursery education must promote knowledge and understanding of Part 1 of the UNCRC, and of the UNCRPD, among those who provide teaching and learning in respect of the curriculum for children for whom that education is provided.
- (3) The local authority, the management committee (if there is one) and the teacher in charge of a pupil referral unit must promote knowledge and understanding of Part 1 of the UNCRC, and of the UNCRPD, among those who provide teaching and learning in respect of the curriculum for the unit.
- (4) A local authority in Wales must promote knowledge and understanding of Part 1 of the UNCRC, and of the the UNCRPD, among those who provide teaching and learning otherwise than at a pupil referral unit under arrangements made by the authority under section 19A of the Education Act 1996 (c. 56).
- (5) In this section—

“UNCRC” (“*CCUHP*”) means the United Nations Convention on the Rights of the Child adopted and opened for signature, ratification and accession by General Assembly resolution 44/25 of 20 November 1989; and Part 1 of the UNCRC is to be treated as having effect—

- (a) as set out for the time being in Part 1 of the Schedule to the Rights of Children and Young Persons (Wales) Measure 2011 (nawm 2), but
- (b) subject to any declaration or reservation as set out for the time being in Part 3 of that Schedule;

“UNCRPD” (“*CCUHPA*”) means the United Nations Convention on the Rights of Persons with Disabilities and its optional protocol adopted on 13 December 2006 by General Assembly resolution A/RES/61/106 and opened for signature on 30 March 2007; and it is to be treated as having effect subject to any declaration or reservation made by the United Kingdom Government upon ratification, save where the declaration or reservation has subsequently been withdrawn.

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VALID FROM 01/09/2022

### *Co-operation and facilitation*

#### **65 Duty to co-operate**

- (1) A person within subsection (2) must seek to enter into co-operation arrangements with—
  - (a) another person within that subsection, or
  - (b) the governing body of an institution in Wales within the further education sector,if the person considers that entering into such arrangements would facilitate the exercise of a function conferred on the person by or under this Act.
- (2) The persons are—
  - (a) the head teacher of a maintained school or a maintained nursery school;
  - (b) the governing body of a maintained school or a maintained nursery school;
  - (c) a provider of funded non-maintained nursery education;
  - (d) the teacher in charge of a pupil referral unit;
  - (e) the management committee for a pupil referral unit;
  - (f) a local authority in Wales.
- (3) If a person seeks to enter into co-operation arrangements with another person in accordance with subsection (1), the other person must consider the request.
- (4) In this section, “co-operation arrangements” means—
  - (a) arrangements made in exercise of the powers of collaboration described in section 5 of the Education (Wales) Measure 2011 (nawm 7), or
  - (b) arrangements of a similar kind made by or with—
    - (i) the head teacher of a maintained school or a maintained nursery school,
    - (ii) a provider of funded non-maintained nursery education,
    - (iii) the teacher in charge of a pupil referral unit, or
    - (iv) the management committee for a pupil referral unit.

#### **66 Welsh Ministers' duty to facilitate the performance of functions**

- (1) The Welsh Ministers must exercise their functions with a view to facilitating the performance of functions, by persons within subsection (2), that are conferred on them by or under Parts 2 to 4.
- (2) The persons are—
  - (a) the head teacher of a maintained school or a maintained nursery school;
  - (b) the governing body of a maintained school or a maintained nursery school;
  - (c) a provider of funded non-maintained nursery education;
  - (d) the teacher in charge of a pupil referral unit;
  - (e) the management committee for a pupil referral unit;
  - (f) a person who provides teaching and learning for a child otherwise than at a maintained school, maintained nursery school or pupil referral unit by

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virtue of arrangements made under section 19A of the Education Act 1996 (c. 56);

(g) a local authority in Wales.

#### **67 Local authorities' duty to facilitate the performance of functions**

(1) A local authority in Wales must exercise its functions with a view to facilitating the performance of functions, by persons within subsection (2), that are conferred on them by or under Parts 2 to 4.

(2) The persons are—

- (a) the head teacher of a maintained school or a maintained nursery school that is maintained by the local authority;
- (b) the governing body of a maintained school or a maintained nursery school that is maintained by the local authority;
- (c) a provider of funded non-maintained nursery education secured by the local authority;
- (d) the teacher in charge of a pupil referral unit maintained by the local authority;
- (e) the management committee for a pupil referral unit maintained by the local authority.

(3) Subsection (4) applies where a local authority makes arrangements under section 19A of the Education Act 1996 (c. 56) for the provision of education to a child otherwise than at—

- (a) a maintained school or maintained nursery school that is maintained by the local authority, or
- (b) a pupil referral unit that is maintained by the local authority.

(4) The authority must exercise its functions with a view to facilitating the performance of their relevant functions by persons within subsection (5).

(5) The persons are—

- (a) where the child is provided with the education at a maintained school or a maintained nursery school that is maintained by another local authority, the head teacher and governing body of the school;
- (b) where the child is provided with the education at a pupil referral unit that is maintained by another local authority, the teacher in charge of the unit, the management committee for the unit (if there is one) and that authority;
- (c) where the education is provided for the child otherwise than at a maintained school or pupil referral unit, any person who provides it.

(6) The “relevant functions” of a person within subsection (5) are the functions conferred on that person, by or under Parts 2 to 4, in respect of the education.

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PROSPECTIVE

*Welsh language*

**68 Welsh Ministers' duty to promote access etc to Welsh medium courses of study**

- (1) The Welsh Ministers must promote access to, and the availability of, courses of study taught through the medium of the Welsh language for children to whom this Act applies.
- (2) In this section, “course of study” means a course of education or training that—
  - (a) leads to a form of qualification or set of forms of qualification approved under Part 4 of the Qualifications Wales Act 2015 (anaw 5) or designated under Part 5 of that Act, or
  - (b) is designated by the Welsh Ministers under section 34(8) of that Act.

*Specific provision for further settings etc*

**69 Power to make provision for children receiving education in more than one setting etc**

- (1) Regulations may make provision for and in connection with teaching and learning to be secured for children of compulsory school age to whom this section applies.
- (2) This section applies to a child who is a registered pupil at a maintained school if—
  - (a) education is provided for the child, either by virtue of arrangements made under section 19A of the Education Act 1996 (c. 56) or otherwise—
    - (i) at another maintained school, or
    - (ii) at a maintained nursery school;
  - (b) education is provided for the child under section 19A of the Education Act 1996 at a pupil referral unit;
  - (c) education is provided for the child under section 19A of the Education Act 1996, otherwise than at a pupil referral unit, maintained school or maintained nursery school.
- (3) This section applies to a child who is a registered pupil at a maintained nursery school if—
  - (a) education is provided for the child, either by virtue of arrangements made under section 19A of the Education Act 1996 or otherwise—
    - (i) at another maintained nursery school, or
    - (ii) at a maintained school;
  - (b) education is provided for the child at a pupil referral unit;
  - (c) education is provided for the child under section 19A of the Education Act 1996, otherwise than at a pupil referral unit, maintained school or maintained nursery school.

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- (4) This section applies to a child who is a registered pupil at a pupil referral unit if education is provided for the child, by virtue of arrangements made under section 19A of the Education Act 1996—
- (a) at another pupil referral unit, or
  - (b) otherwise than at a pupil referral unit or a maintained school or maintained nursery school.
- (5) This section applies to a child if the child—
- (a) is not above compulsory school age, and
  - (b) is of a description specified in the regulations.
- (6) Regulations under this section may also make provision for and in connection with the making, and implementation, of arrangements for assessing the following matters—
- (a) the progress made by children to whom this section applies;
  - (b) the next steps in their progression;
  - (c) the teaching and learning needed to make that progress.
- (7) The regulations may—
- (a) confer functions on a person within subsection (8);
  - (b) apply a provision made by or under this Act in respect of children to whom this section applies, with or without modifications;
  - (c) provide for a provision made by or under this Act, that would otherwise apply in respect of those children, not to do so.
- (8) The persons are—
- (a) the head teacher of a maintained school or a maintained nursery school;
  - (b) the governing body of a maintained school or a maintained nursery school;
  - (c) the teacher in charge of a pupil referral unit;
  - (d) the management committee for a pupil referral unit;
  - (e) a person who provides teaching and learning for a child otherwise than at a maintained school, maintained nursery school or pupil referral unit by virtue of arrangements made under section 19A of the Education Act 1996;
  - (f) a provider of funded non-maintained nursery education;
  - (g) a local authority in Wales.

VALID FROM 01/09/2022

## **70 Power to apply Act to detained children and detained young persons**

- (1) Regulations may apply provisions of this Act, with or without modifications, to—
- (a) detained children in Wales of a description specified in the regulations, and
  - (b) detained young persons in Wales of a description specified in the regulations.
- (2) In this section, a detained child or detained young person means a child or young person who is detained in pursuance of—
- (a) an order made by a court, or

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(b) an order of recall made by the Secretary of State.

VALID FROM 01/09/2022

### *Guidance*

#### **71 Duty to have regard to guidance**

- (1) The Welsh Ministers may issue guidance in relation to the exercise of functions conferred by or under this Act.
- (2) Before issuing guidance under this section, the Welsh Ministers must consult the persons they think appropriate (if any).
- (3) In exercising their functions, the following persons must have regard to any guidance issued by the Welsh Ministers under this section—
  - (a) the head teacher of a maintained school or a maintained nursery school;
  - (b) the governing body of a maintained school or a maintained nursery school;
  - (c) a provider of funded non-maintained nursery education;
  - (d) the teacher in charge of a pupil referral unit;
  - (e) the management committee for a pupil referral unit;
  - (f) a person who provides teaching and learning for a child, otherwise than at a maintained school, maintained nursery school or pupil referral unit, by virtue of arrangements made under section 19A of the Education Act 1996 (c. 56);
  - (g) a local authority in Wales.

## **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.

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- (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.
- (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.



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- (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).
- (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.

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- (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;
  - (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”).

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## 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 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.

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- (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.

### 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)         |

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|   |                  |
|---|------------------|
| 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> ”)   |                  |
| (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 gynorthwyr</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)    |

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What Matters Code (“*Cod yr Hyn sy’n* section 6(1)  
*Bwysig*”)

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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.
- (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.

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