

SCHEDULE 2

Amendments to primary legislation

School Standards and Framework Act 1998 (c. 31)

- 4.—(1) The School Standards and Framework Act 1998 is amended as follows.
- (2) In the italic heading before section 58, after “religious education” insert “etc”.
- (3) In section 58 (appointment and dismissal of certain teachers at schools with a religious character)—
- (a) in the heading, at the end insert “: England”;
 - (b) in subsection (1)—
 - (i) in paragraph (a), after “voluntary controlled school” insert “in England”;
 - (ii) in paragraph (b), after “voluntary aided school” insert “in England”;
 - (iii) in the words after paragraph (b)—
 - (aa) after “construed” insert “in relation to a school in England”;
 - (bb) omit “section 68A and”.
- (4) After section 58 insert—
- “58A. Appointment and dismissal of certain teachers at schools with a religious character: Wales*
- (1) In this section—
- (a) subsections (3) to (7) apply to a foundation or voluntary controlled school in Wales that has a religious character, and
 - (b) subsections (8) and (9) apply (subject to subsection (10)) to a voluntary aided school in Wales that has a religious character.
- (2) References in this Chapter to a school which has (or does not have) a religious character are to be construed, in relation to a school in Wales, in accordance with section 68A(1).
- (3) Where the number of teachers at a school to which this subsection applies is more than two, the teachers must include persons (“reserved teachers”) who—
- (a) are selected for their fitness and competence to provide teaching and learning within subsection (11), and
 - (b) are specifically appointed to provide that teaching and learning.
- (4) The number of reserved teachers at a school must not exceed one fifth of the total number of teachers, including the head teacher; and for this purpose where the total number of teachers is not a multiple of five, it is to be treated as if it were the next higher multiple of five.
- (5) Where the appropriate body propose to appoint a person as a reserved teacher in a school, that body—
- (a) must consult the foundation governors, and
 - (b) must not appoint that person unless the foundation governors are satisfied as to the person’s fitness and competence to provide teaching and learning within subsection (11).
- (6) Subsection (7) applies if the foundation governors of a school to which subsection (3) applies consider that a person appointed as a reserved teacher at the school has failed to provide teaching and learning within subsection (11) efficiently and suitably.
- (7) The foundation governors may—
- (a) in the case of a teacher who is an employee, require the appropriate body to dismiss the teacher from employment as a teacher appointed under subsection (3);

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- (b) in the case of a teacher who is engaged otherwise than under a contract of employment, require the governing body to terminate that engagement.
- (8) Subsection (9) applies if a teacher appointed to provide teaching and learning within subsection (11), in a school to which this subsection applies, fails to provide that teaching and learning efficiently and suitably.
- (9) The teacher may be dismissed by the governing body, without the consent of the local authority, on the ground of failure to provide the teaching and learning efficiently and suitably.
- (10) Subsection (9) does not apply where the school has a delegated budget.
- (11) Teaching and learning within this section is teaching and learning in Religion, Values and Ethics that accords with—
- (a) any provisions of the school’s trust deed that relate to teaching and learning in Religion, Values and Ethics, or
 - (b) if there are no such provisions, the tenets of the religion or religious denomination specified in relation to the school under section 68A.
- (12) In this section—
- “the appropriate body” means—
- (a) in relation to a foundation school, the governing body, and
 - (b) in relation to a voluntary controlled school, the local authority;
- “Religion, Values and Ethics” has the same meaning as in the Curriculum and Assessment (Wales) Act 2021.”
- (5) In section 59 (staff at community, secular foundation or voluntary, or special school)—
- (a) in subsection (3), after “education” insert “(in the case of a school in England) or to provide teaching and learning in Religion, Values and Ethics (in the case of a school in Wales)”;
 - (b) in subsection (4), in paragraph (a), after “education” insert “or (as the case may be) provide teaching and learning in Religion, Values and Ethics”.
- (6) In section 60 (staff at foundation or voluntary school with a religious character), in subsection (5)(a), in sub-paragraph (iii), after “tenets” insert “(in the case of a school in England) or to provide teaching and learning in Religion, Values and Ethics in accordance with those tenets (in the case of a school in Wales)”.
- (7) In section 102 (permitted selection: aptitude for particular subjects)—
- (a) in the heading, after “selection” insert “in maintained schools in England”;
 - (b) in subsection (1), after “maintained school” insert “in England”.
- (8) After section 102 insert—
- “102A. Permitted selection in maintained schools in Wales: aptitude for particular areas of learning and experience etc.*
- (1) The admission arrangements for a maintained school in Wales may make provision for the selection of pupils for admission to the school by reference to their aptitude for—
- (a) one or more prescribed areas of learning and experience, or
 - (b) one or more prescribed elements within one or more areas of learning and experience.
- (2) But the admission arrangements may make such provision only where—
- (a) the admission authority for the school are satisfied that the school has a specialism in the area or areas, or element or elements, in question, and
 - (b) the proportion of selective admissions in any relevant age group does not exceed 10 per cent.

(3) Subsection (1) does not apply if the admission arrangements make provision for any test to be carried out in relation to an applicant for admission which is either a test of ability or one designed to elicit the applicant's aptitude other than for the area or areas, or element or elements, in question.

(4) Where, however, the admission arrangements for a school make both such provision for selection by aptitude as is mentioned in subsection (1) and such provision for selection by ability as is mentioned in section 101(1), the reference in subsection (3) to a test of ability does not include any such test for which provision may be made under that section.

(5) In this section, "the proportion of selective admissions", in relation to a relevant age group, means the proportion of the total number of pupils admitted to the school in that age group (determined in the prescribed manner) which is represented by the number of pupils so admitted by reference to aptitude for the area or areas, or element or elements, in question.

(6) In this section—

"area of learning and experience" has the same meaning as in the Curriculum and Assessment (Wales) Act 2021;

"test" includes assessment and examination."

(9) In Schedule 20 (collective worship), in paragraph 4, in sub-paragraph (1), for "on religious education" substitute "constituted under section 390 of the Education Act 1996".

(10) In Schedule 26 (inspection of nursery education in Wales), in paragraph 3 (general functions of the Chief Inspector)—

(a) the existing provision becomes sub-paragraph (1);

(b) in that sub-paragraph—

(i) omit the "and" after paragraph (ac);

(ii) after paragraph (ac) insert—

"(ad) the development of children for whom relevant nursery education is provided, by reference to the four purposes of a curriculum for those children, and";

(c) after that sub-paragraph insert—

"(2) In sub-paragraph (1), the four purposes of a curriculum for the children mentioned in paragraph (ad) are those set out in section 2(1) of the Curriculum and Assessment (Wales) Act 2021."