



# Learning and Skills (Wales) Measure 2009

**2009 nawm 1**

## **PART 1**

### **LOCAL CURRICULUM FOR PUPILS IN KEY STAGE 4**

#### *General*

#### **1 Interpretation**

- (1) Section 97 of the Education Act [2002 \(c. 32\)](#) (interpretation of Part 7) is amended in accordance with this section.
- (2) After the definition of “attainment targets”, insert—

““course of study” means a course of education or training which leads to a qualification or set of qualifications approved under section 99 of the Learning and Skills Act 2000 for the purposes of section 96 of that Act;”.
- (3) After the definition of “key stage”, insert—

““local curriculum” and “local curricula” are to be construed in accordance with section 116A and, in relation to a pupil’s school, “local curriculum” means—

  - (a) where the local education authority by which the school is maintained has formed a single local curriculum under section 116A, that local curriculum; or
  - (b) where the local education authority by which the school is maintained has formed more than one local curriculum under section 116A, the local curriculum in respect of which the school is designated under section 116C(2);”.
  - (4) After the definition of “maintained nursery school”, insert—

““maintained secondary school”, in sections 116A to 116K, means a maintained school which is a secondary school unless it is a community

or foundation special school which is maintained by a local education authority in Wales;”.

(5) After the definition of “pupil”, insert—

““regulations” means regulations made by the Welsh Ministers;

“school”, in sections 116E to 116H, in relation to a pupil, means the maintained secondary school of which he or she was a registered pupil when he or she made an election under section 116D(1);”.

## **2 Duty to implement general requirements**

(1) Section 100 of the Education Act 2002 (c. 32) (duty to implement general requirements) is amended in accordance with this section.

(2) Omit “and” at the end of subsection (4)(a) and insert “, and” at the end of subsection (4)(b).

(3) After subsection (4)(b), insert—

“(c) functions conferred by this Part in relation to the local curriculum or curricula for a local education authority’s area.”

## **3 Basic curriculum for every maintained school in Wales**

(1) Section 101 of the Education Act 2002 (c. 32) (basic curriculum for every maintained school in Wales) is amended in accordance with this section.

(2) Omit “and” at the end of subsection (1)(c).

(3) After subsection (1)(c), insert—

“(ca) in the case of a secondary school, provision for education which satisfies the entitlements of registered pupils at the school under section 116E, and”.

### *Formation of local curricula*

## **4 Formation of local curricula for pupils in Key Stage 4**

After section 116 of the Education Act 2002 (c. 32) insert—

### *“The local curricula*

#### **116A Formation of local curricula for pupils in Key Stage 4**

(1) Each local education authority in Wales must form for its area one or more local curricula for pupils in the fourth key stage.

(2) A local curriculum must consist of suitable courses of study each of which—

- (a) falls within a category in subsection (3) (the “learning domains”); and
- (b) is from time to time selected by a local education authority to form part of that local curriculum.

- (3) The learning domains are—
  - (a) mathematics, science and technology;
  - (b) business, administration and law;
  - (c) services for people;
  - (d) arts, media, culture and languages;
  - (e) humanities, social sciences and preparation for life and work.
- (4) Subject to any regulations made under subsection (5), a local education authority may form a local curriculum as it sees fit.
- (5) Regulations may make provision as to the formation of a local curriculum, including in particular provision—
  - (a) requiring a minimum number of courses of study to be included within—
    - (i) a local curriculum; or
    - (ii) a particular learning domain of a local curriculum;
  - (b) specifying—
    - (i) a minimum proportion of vocational courses of study (as compared with other courses of study) that must be included within a local curriculum; or
    - (ii) a minimum number of vocational courses of study that must be included within a local curriculum;
  - (c) preventing during a specified period any alteration to the contents of a local curriculum.
- (6) For the purposes of this section—
  - (a) a course of study is suitable if it is designated as suitable for inclusion in local curricula by direction given by the Welsh Ministers;
  - (b) a vocational course of study is a course of study designated as such by direction given by the Welsh Ministers;
  - (c) a course of study falls within a particular learning domain if a direction of the Welsh Ministers so provides.
- (7) Regulations under subsection (5) may make different provision in relation to local curricula formed by different local education authorities.”

## **5 Local curricula: Welsh language**

After section 116A of the Education Act 2002 (c. 32) insert—

### **“116B Local curricula: Welsh language**

- (1) Each local education authority must exercise their functions in relation to local curricula so as to promote access to and availability of courses of study which are taught through the medium of the Welsh language.
- (2) In the discharge of its duty under subsection (1), a local education authority must have regard to any guidance given by the Welsh Ministers.
- (3) Guidance under subsection (2) may be given to a particular authority, or to authorities of a particular class or to authorities generally.

- (4) Within two months of the end of each academic year, a local education authority must, in accordance with any instructions given by the Welsh Ministers, provide the Welsh Ministers with a report which—
- (a) describes the courses of study included within local curricula established by the authority for that academic year which were to be taught through the medium of Welsh;
  - (b) describes how many pupils elected to follow such courses under section 116D and how many pupils were entitled to follow such courses under section 116E;
  - (c) explains what the authority plans to do in academic years following that to which the report relates so that registered pupils of schools maintained by the authority are given the opportunity to follow local curricula courses of study which are taught through the medium of Welsh.
- (5) For the purposes of subsection (4), “academic year” means the period of 12 months beginning on 1 September.”

## 6 Authorities with more than one local curriculum

After section 116B of the Education Act 2002 (c. 32) insert—

### “116C Authorities with more than one local curriculum

- (1) This section applies where a local education authority forms more than one local curriculum under section 116A.
- (2) In relation to each local curriculum, the local education authority must designate the maintained secondary schools whose registered pupils are to be entitled to elect under section 116D to follow courses of study included within the curriculum.”

### *Entitlements*

## 7 Pupils' choices of local curriculum courses

After section 116C of the Education Act 2002 (c. 32) insert—

### “116D Pupils' choices of local curriculum courses

- (1) A registered pupil of a maintained secondary school has the right to elect to follow, during the fourth key stage, a course or courses of study included within the local curriculum for the pupil's school. But this is subject to regulations made under subsection (2).
- (2) Regulations may make provision as to the making of elections under this section, including in particular provision—
  - (a) specifying the maximum number of courses of study of a particular type that a pupil has the right to elect to follow;

- (b) identifying points to be allotted to courses of study and preventing a pupil from having the right to elect to follow a combination of courses of study if their aggregate points exceed a specified amount;
- (c) as to the period during which elections are to be made.”

## 8 Pupils' local curriculum entitlements

After section 116D of the Education Act 2002 (c. 32) insert—

### “116E Pupils' local curriculum entitlements

- (1) During the fourth key stage, a pupil who has made an election under section 116D(1) is entitled to follow the elected course of study unless—
  - (a) the pupil ceases to be a registered pupil of the school at which he or she was registered when he or she elected under section 116D(1) to follow the course of study; or
  - (b) before the beginning of the fourth key stage, the head teacher of the pupil's school has decided under section 116F that the pupil is not entitled to follow the course of study.
- (2) Where a pupil is entitled to follow a course of study, it is for the head teacher of the pupil's school to decide upon which date during the fourth key stage the course is to begin.”

## 9 Head teacher's decision as to entitlement

After section 116E of the Education Act 2002 (c. 32) insert—

### “116F Head teacher's decision as to entitlement

- (1) If the head teacher of a pupil's school is satisfied that any of the grounds in subsection (2) apply, the head teacher may decide that the pupil is not entitled to follow a course of study which the pupil has elected to follow under section 116D(1).
- (2) The grounds referred to in subsection (1) are that—
  - (a) as a result of the pupil's level of educational attainment, the course of study is not suitable for him or her;
  - (b) as a result of other elections made by the pupil under section 116D(1), it is not reasonably practicable for him or her to follow the course of study;
  - (c) the amount of time likely to be spent travelling to the place at which the course of study is likely to be delivered would be detrimental to the pupil's education;
  - (d) disproportionate expenditure would be incurred if the pupil were to follow the course of study;
  - (e) the pupil's or another person's health or safety would be placed unacceptably at risk if the pupil were to follow the course of study.
- (3) Regulations may make provision connected with the making of decisions under subsection (1), including in particular provision—

- (a) as to the time or date by which decisions are to be made;
  - (b) as to the procedure to be followed in connection with the making of decisions;
  - (c) for appeals against decisions to be made to the governing body of a pupil's school or another person specified in the regulations;
  - (d) as to the time or date by which appeals are to be determined;
  - (e) as to the procedure to be followed in connection with the determination of an appeal.
- (4) A head teacher and governing body or other person charged with determining appeals under regulations made under subsection (3) must have regard to any guidance given from time to time by the Welsh Ministers as to the exercise of their functions under this section.
- (5) The Welsh Ministers may by order—
- (a) amend or omit any paragraph of subsection (2);
  - (b) add additional paragraphs to that subsection;
  - (c) amend or omit such additional paragraphs.”

## 10 Delivery of local curriculum entitlements

After section 116F of the Education Act 2002 (c. 32) insert—

### “116G Delivery of local curriculum entitlements

Where a pupil is entitled to follow a course of study under section 116E(1), the governing body of the pupil's school must ensure that during the fourth key stage the course is made available to the pupil by or on behalf of the governing body.”

## 11 Head teacher's decision to remove entitlement

After section 116G of the Education Act 2002 (c. 32) insert—

### “116H Head teacher's decision to remove entitlement

- (1) If the head teacher of a pupil's school is satisfied that any of the grounds in subsection (2) apply, the head teacher may decide that a pupil is no longer entitled to follow a course of study that the pupil was entitled to follow under section 116E.
- (2) The grounds referred to in subsection (1) are that—
  - (a) the pupil's or another person's health or safety would be placed unacceptably at risk if the pupil were to continue to follow the course of study;
  - (b) disproportionate expenditure would be incurred if the pupil were to continue to follow the course of study.
- (3) Regulations may make provision connected with the making of decisions under subsection (1) including in particular provision—
  - (a) as to the procedure to be followed in connection with the making of decisions;

- (b) for appeals against decisions to be made to the governing body of a pupil's school or another person specified in the regulations;
  - (c) as to the effect of a decision pending determination of an appeal;
  - (d) as to the procedure to be followed in connection with the determination of an appeal.
- (4) A head teacher and governing body or other person charged with determining appeals under regulations made under subsection (3) must have regard to any guidance given from time to time by the Welsh Ministers as to the exercise of their functions under this section.
- (5) The Welsh Ministers may by order—
  - (a) amend or omit any paragraph of subsection (2);
  - (b) add additional paragraphs to that subsection;
  - (c) amend or omit such additional paragraphs.”

*Joint-working*

## 12 Planning the local curriculum

After section 116H of the Education Act 2002 (c. 32) insert—

### “116I Planning the local curriculum

- (1) The following persons must assist a local education authority in planning the local curriculum or curricula for its area—
  - (a) the governing body and head teacher of any maintained secondary school maintained by the authority;
  - (b) the governing body and principal or other head of an institution within the further education sector in the authority's area.
- (2) In subsection (1), “planning the local curriculum or curricula” means the process by which a local education authority decides under section 116A which courses of study to include in the local curriculum or curricula for its area.
- (3) The persons mentioned in subsection (1) must—
  - (a) have regard to any guidance given from time to time; and
  - (b) comply with any directions given,by the Welsh Ministers as to the exercise of their functions under that subsection.”

## 13 Delivery of local curriculum entitlements: joint-working

After section 116I of the Education Act 2002 (c. 32) insert—

### “116J Delivery of local curriculum entitlements: joint-working

- (1) The objective of this section is to maximise the availability of courses of study included in a local curriculum formed under section 116A.

- (2) In relation to the local curriculum or curricula for the area of a local education authority, the persons mentioned in subsection (4) must take all reasonable steps in order to achieve the objective of this section.
- (3) The duty under subsection (2) includes, but is not limited to, a duty to seek to enter into cooperation arrangements where, having considered whether it would further the objective of this section to do so, the persons mentioned in subsection (4) have concluded that entering into such arrangements would further that objective.
- (4) The persons are—
  - (a) the local education authority;
  - (b) the governing body of a secondary school maintained by the authority; and
  - (c) the governing body of an institution within the further education sector which is situated within the area of the authority.
- (5) In this section and section 116K “co-operation arrangements” means—
  - (a) arrangements under which any person provides, on behalf of the governing body of a maintained secondary school, a course of study included within the relevant local curriculum for the school;
  - (b) arrangements made under regulations under section 26 (collaboration between schools); and
  - (c) arrangements made under regulations under section 166 of the Education and Inspections Act 2006 (collaboration arrangements: maintained schools and further education bodies).
- (6) For the purposes of this section, in relation to a maintained secondary school, “relevant local curriculum” means—
  - (a) where the local education authority by which the school is maintained has formed a single local curriculum for its area, that curriculum; or
  - (b) where the local education authority by which the school is maintained has formed more than one local curriculum for its area, the curriculum in respect of which the school is designated under section 116C(2).”

## **14 Joint-working: guidance and directions**

After section 116J of the Education Act 2002 (c. 32) insert—

### **“116K Joint-working: guidance and directions**

- (1) A local education authority, a governing body of a maintained secondary school and the governing body of an institution within the further education sector in Wales must have regard to any guidance given from time to time by the Welsh Ministers as to the discharge of their duties under section 116J.
- (2) Guidance given under subsection (1) may relate to the content of co-operation arrangements.
- (3) The persons mentioned in subsection (1) must comply with any direction given by the Welsh Ministers as to the entering into of co-operation arrangements.
- (4) A direction under subsection (3)—

- (a) may require persons to enter into specified arrangements;
- (b) may specify the terms upon which arrangements are to be entered into (whether generally or in respect of specified arrangements);
- (c) in the case of a direction to enter into specified arrangements with a person who is not mentioned in subsection (1), must not be given unless that person consents to the direction.”

### *Supplemental*

## **15 Power to amend learning domains**

After section 116K of the Education Act 2002 (c. 32) insert—

### **“116L Power to amend learning domains**

The Welsh Ministers may by order—

- (a) amend or omit any paragraph of subsection (3) of section 116A;
- (b) add additional paragraphs to that subsection;
- (c) amend or omit such additional paragraphs.”

## **16 Application of local curriculum provisions to children who are not registered pupils**

After section 116L of the Education Act 2002 (c. 32) insert—

### **“116M Application of local curriculum provisions to children who are not registered pupils**

- (1) Regulations may apply the provisions of sections 116A to 116K and the provisions of any regulations made under section 46 of the Learning and Skills (Wales) Measure 2009 in respect of a person falling within subsection (3).
- (2) The regulations may apply those provisions with such modifications as appear to the Welsh Ministers to be necessary or expedient.
- (3) A person falls within this subsection if he or she—
  - (a) is of compulsory school age;
  - (b) is not a registered pupil of a maintained school; and
  - (c) receives all, or the majority of, his or her education at, or under arrangements made by the governing body of, an institution within the further education sector in Wales.”

## **17 Application of local curriculum provisions to children who are registered pupils of special schools**

After section 116M of the Education Act 2002 (c. 32) insert—

**“116N Application of local curriculum provisions to children who are registered pupils of special schools**

- (1) Regulations may apply the provisions of sections 116A to 116K and the provisions of any regulations made under section 46 of the Learning and Skills (Wales) Measure 2009 in respect of a person falling within subsection (3).
- (2) The regulations may apply those provisions with such modifications as appear to the Welsh Ministers to be necessary or expedient.
- (3) A person falls within this subsection if he or she—
  - (a) is of compulsory school age; and
  - (b) is a registered pupil of a community or foundation special school which is maintained by a local education authority in Wales and is not established in a hospital.”

**18 Local curriculum: directions**

After section 116N of the Education Act 2002 (c. 32) insert—

**“116O Local curriculum: directions**

Any direction given by the Welsh Ministers under sections 116A(6), 116I(3) and 116K(3) may be varied or revoked by a further direction.”

**19 Powers to alter or remove requirements for fourth key stage**

- (1) Section 107 of the Education Act 2002 (c. 32) is amended in accordance with this section.
- (2) Insert “(1)” at the beginning of the section and replace “National Assembly for Wales” with “Welsh Ministers”.
- (3) At the end of the section insert—
 

“(2) Such an order may make such amendments of this Act as appear to the Welsh Ministers to be necessary or expedient in connection with the provision made under subsection (1).”

**20 Regulations and orders: procedure**

- (1) The Education Act 2002 (c. 32) is amended in accordance with subsections (2) and (3).
- (2) In section 210(6A)—
  - (a) after “regulations” insert “or an order”;
  - (b) after “section 32(9)” insert “or Part 7”; and
  - (c) at the end insert—
 

“unless the instrument contains an order mentioned in subsection (6AB).”
- (3) After section 210(6A) insert—

“(6AB) No order shall be made by the Welsh Ministers under section 101(3), 103(4)(b), 105(6), 107, 116F(5), 116H(5) or 116L unless a draft of the statutory instrument containing the order has been laid before, and approved by a resolution of, the National Assembly for Wales.”