

EDUCATION (WALES) MEASURE 2011

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 1: Collaboration by education bodies

Section 1 – Education bodies

6. Part 1 of the Measure confers functions on education bodies in connection with arrangements to collaborate. This section defines as education bodies, a local authority, the governing body of a maintained school, a further education corporation, and a further education institution which is designated under section 28(4) of the Further and Higher Education Act 1992.

Section 2 - The collaboration objective

7. This section sets out the objective of Part 1 of the Measure, which is to secure the effective and efficient use of public resources in relation to education and training up to the age of 19 (“the collaboration objective”).

Section 3 - Duty of education body to collaborate

8. Subsection (1) places a duty on an education body to consider from time to time, when exercising its other functions, whether the exercise of its powers of collaboration would further the collaboration objective. A local authority’s other functions consist only of its education functions (see the definition of “functions” in section 8). If it considers that collaborating would further the objective, the education body must seek to exercise its powers of collaboration (subsection (2)).
9. Subsection (3) limits the duty to consider collaboration imposed on further education institutions to the provision of education for those up to 19.

Section 4 - Meaning of ‘powers of collaboration’

10. Section 4 defines the meaning of ‘powers of collaboration’. For all education bodies these are the powers in section 5 and for local authorities these also include powers in other legislation.

Section 5 - Powers to collaborate

11. This section confers on education bodies broad powers to enable them to collaborate for the purpose of discharging or facilitating the discharge of their duties under section 3 of the Measure, section 33K of the Learning and Skills Act 2000, section 116J of the Education Act 2002, or the duty of another education body under those provisions. Section 33K of the Learning and Skills Act 2000 and section 116J of the Education Act 2002 impose duties to collaborate in connection with the delivery of the local curriculum.

12. [Section 5](#) allows an education body to collaborate with another education body to facilitate the discharge of that other education body's duties, whether or not that would facilitate the discharge of its own duties.
13. The powers to collaborate include powers to delegate functions and to arrange for joint committees to carry out their functions.
14. Whilst the Measure confers the same powers on all types of education body covered by the Measure, it does not empower or compel other bodies to collaborate with an education body. However, such bodies may be able to do so under their existing powers.
15. Subsection (3) provides that these new powers do not affect any education body's powers in any other legislation and that they are limited by any provision which may be made in regulations under section 6.

Section 6 - Regulations about the power to collaborate

16. Subsection (1) provides a power for the Welsh Ministers to make further provision by way of regulations about the power to collaborate. Regulations under this subsection could, for example, set out the functions that an education body cannot delegate to another body or to a joint committee.
17. Subsection (2) provides that regulations may make particular provision about the constitution and procedure of joint committees of the collaborating education bodies, and other connected matters.
18. Subsections (3) and (4) provide that regulations may modify any legislation relating to the functions of the collaborating education bodies, where those functions are delegated, or relating to the bodies by whom those functions are to be discharged, in its application to those functions or bodies. Legislation may need to be modified in order to reflect the fact that another body or a joint committee may in fact be carrying out a particular function (in the place of, or as well as the education body on whom the function is conferred).

Section 7 – Guidance

19. Section 7 allows the Welsh Ministers to issue guidance about collaboration to which education bodies must have regard.

Section 8 – Interpretation of this Part

20. This section defines terms used in Part 1 of the Measure.

Section 9 - Minor and consequential amendments

21. [Section 9](#) repeals, in so far as they apply in relation to Wales, section 26 of the Education Act 2002 and section 166 of the Education and Inspections Act 2006. Those sections made provision for regulations to be made allowing for collaboration between schools and for collaboration between further education bodies and between schools and further education bodies. The sections are now replaced, for Wales, by the provisions of Part 1 of the Measure, which impose duties in relation to collaboration. Section 9 also makes other consequential amendments.