



Education Act 2002

2002 CHAPTER 32

PART 7

THE CURRICULUM IN WALES

Preliminary

97 Interpretation of Part 7

In this Part—

“assess” includes examine and test, and related expressions shall be construed accordingly;

“assessment arrangements” means—

- (a) in relation to the foundation stage, the arrangements for assessing pupils in respect of that stage for the purpose of ascertaining what they have achieved in relation to the desirable outcomes; and
- (b) in relation to a key stage, the arrangements for assessing pupils in respect of that stage for the purpose of ascertaining what they have achieved in relation to the attainment targets for that stage;

“attainment targets”, in relation to a key stage, means the knowledge, skills and understanding which pupils of different abilities and maturities are expected to have by the end of that stage;

“desirable outcomes”, in relation to the foundation stage, has the meaning given by section 104;

“the foundation stage” has the meaning given by section 102;

“key stage”, or references to a particular key stage, shall be construed in accordance with section 103;

“maintained school” means—

- (a) any community, foundation or voluntary school maintained by a local education authority in Wales, or

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(b) except where otherwise stated, any community or foundation special school which is maintained by a local education authority in Wales and is not established in a hospital;

“maintained nursery school” means a nursery school which is maintained by a local education authority in Wales and is not a special school;

“programmes of study”, in relation to a key stage, means matters, skills and processes which are required to be taught to pupils of different abilities and maturities by the end of that stage;

“pupil” includes a child for whom funded nursery education is provided;

“school year”, in relation to a school, means the period beginning with the first school term to begin after July and ending with the beginning of the first school term to begin after the following July; and has a corresponding meaning in relation to the provision of funded nursery education otherwise than at a school.

98 Meaning of “nursery education” and related expressions

- (1) In this Part “nursery education” means full-time or part-time education suitable for children who have not attained compulsory school age (whether provided at schools or elsewhere).
- (2) For the purposes of this Part, nursery education is “funded nursery education” in relation to a child if—
 - (a) it is provided in a maintained school or a maintained nursery school, or
 - (b) it is provided, by a person other than the governing body of any such school, under arrangements made with that person by a local education authority in Wales in pursuance of the duty imposed on the authority by section 118 of the School Standards and Framework Act 1998 (c. 31) and in consideration of financial assistance provided by the authority under those arrangements.
- (3) For the purposes of this Part, funded nursery education provided in relation to a child otherwise than at a maintained school or maintained nursery school is to be taken to be provided by the person with whom the arrangements referred to in subsection (2) (b) are made by the local education authority.

General duties in respect of the curriculum

99 General requirements in relation to curriculum

- (1) The curriculum for a maintained school or maintained nursery school satisfies the requirements of this section if it is a balanced and broadly based curriculum which—
 - (a) promotes the spiritual, moral, cultural, mental and physical development of pupils at the school and of society, and
 - (b) prepares pupils at the school for the opportunities, responsibilities and experiences of later life.
- (2) The curriculum for any funded nursery education provided otherwise than at a maintained school or maintained nursery school satisfies the requirements of this section if it is a balanced and broadly based curriculum which—

- (a) promotes the spiritual, moral, cultural, mental and physical development of the pupils for whom the funded nursery education is provided and of society, and
- (b) prepares those pupils for the opportunities, responsibilities and experiences of later life.

100 Duty to implement general requirements

- (1) The National Assembly for Wales shall exercise its functions with a view to securing—
 - (a) that the curriculum for every maintained school or maintained nursery school satisfies the requirements of section 99, and
 - (b) that the curriculum for any funded nursery education provided otherwise than at a maintained school or maintained nursery school satisfies the requirements of that section.
- (2) Every local education authority in Wales shall exercise their functions with a view to securing—
 - (a) that the curriculum for every maintained school or maintained nursery school which they maintain satisfies the requirements of section 99, and
 - (b) that the curriculum for any funded nursery education provided, under arrangements made by them, otherwise than at a maintained school or maintained nursery school, satisfies the requirements of section 99.
- (3) The governing body and head teacher of every maintained school or maintained nursery school shall exercise their functions with a view to securing that the curriculum for the school satisfies the requirements of section 99.
- (4) The functions referred to in subsections (1) to (3) include in particular—
 - (a) functions conferred by this Part in relation to the National Curriculum for Wales, and
 - (b) except in relation to maintained nursery schools or the provision of funded nursery education otherwise than at a maintained school or maintained nursery school, functions relating to religious education and religious worship.
- (5) Any person providing funded nursery education under the arrangements mentioned in section 98(2)(b) shall secure that the curriculum for that funded nursery education satisfies the requirements of section 99.
- (6) In exercising any function which may affect the provision of sex education in maintained schools, every local education authority in Wales shall have regard to the guidance issued by the National Assembly for Wales under section 403(1A) of the Education Act 1996 (c. 56).
- (7) Except to the extent provided in subsection (6), nothing in this section shall be taken to impose duties on a local education authority with regard to sex education.
- (8) In exercising any function which may affect the provision in maintained schools of education of a kind required by virtue of an order under section 101(3)(a), a local education authority in Wales or the governing body of a maintained school shall have regard to any guidance from time to time given by the National Assembly for Wales.

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101 Basic curriculum for every maintained school in Wales

- (1) The curriculum for every maintained school in Wales shall comprise a basic curriculum which includes—
- (a) provision for religious education for all registered pupils at the school (in accordance with such of the provisions of Schedule 19 to the School Standards and Framework Act 1998 (c. 31) as apply in relation to the school),
 - (b) a curriculum for all registered pupils at the school who have attained the age of three but are not over compulsory school age (known as “the National Curriculum for Wales”),
 - (c) in the case of a secondary school, provision for sex education for all registered pupils at the school, and
 - (d) in the case of a special school, provision for sex education for all registered pupils at the school who are provided with secondary education.
- (2) Subsection (1)(a) does not apply—
- (a) in relation to a nursery class in a primary school, or
 - (b) in the case of a maintained special school (provision as to religious education in special schools being made by regulations under section 71(7) of the School Standards and Framework Act 1998 (c. 31)).
- (3) The National Assembly for Wales may by order—
- (a) amend subsection (1) so as to add further requirements (otherwise than in relation to religious education or sex education),
 - (b) amend subsection (1)(b)—
 - (i) by substituting for the reference to the age of three (or to any age specified there by virtue of this sub-paragraph) a reference to such other age as may be specified in the order, or
 - (ii) by substituting for the reference to compulsory school age (or to any age specified there by virtue of this sub-paragraph) a reference to such other age as may be specified in the order, and
 - (c) amend any provision included in subsection (1) by virtue of paragraph (a) of this subsection.

The National Curriculum for Wales

102 The foundation stage

For the purposes of this Part, the foundation stage in relation to a pupil is such period as may be specified in an order made by the National Assembly for Wales.

103 The key stages

- (1) For the purposes of this Part, the key stages in relation to a pupil are—
- (a) the period beginning with his becoming of compulsory school age and ending at the same time as the school year in which the majority of pupils in his class attain the age of seven (“the first key stage”),
 - (b) the period beginning at the same time as the school year in which the majority of pupils in his class attain the age of eight and ending at the same time as the school year in which the majority of pupils in his class attain the age of eleven (“the second key stage”),

- (c) the period beginning at the same time as the school year in which the majority of pupils in his class attain the age of twelve and ending at the same time as the school year in which the majority of pupils in his class attain the age of fourteen (“the third key stage”), and
 - (d) the period beginning at the same time as the school year in which the majority of pupils in his class attain the age of fifteen and ending at the same time as the school year in which the majority of pupils in his class cease to be of compulsory school age (“the fourth key stage”).
- (2) The head teacher of a school may elect, in relation to a particular pupil and a particular subject, that subsection (1) shall have effect as if any reference to the school year in which the majority of pupils in that pupil’s class attain a particular age were a reference to the school year in which that pupil attains that age.
- (3) If at any time, in the case of a pupil of compulsory school age, subsection (1) does not, apart from this subsection, apply to determine the period within which that time falls, that subsection shall have effect as if—
- (a) in the case of paragraphs (a) to (c), any reference to the school year in which the majority of pupils in that pupil’s class attain a particular age were a reference to the school year in which that pupil attains that age, and
 - (b) in the case of paragraph (d), the period were a period beginning at the same time as the school year in which he attains the age of fifteen and ending when he ceases to be of compulsory school age.
- (4) The National Assembly for Wales may by order—
- (a) provide that, in relation to any subject specified in the order, subsection (1) shall have effect as if for the ages of seven and eight there specified there were substituted such other ages (less than eleven and twelve respectively) as may be specified in the order, or
 - (b) amend subsections (1) to (3).
- (5) In this section “class”, in relation to a particular pupil and a particular subject, means—
- (a) the teaching group in which he is regularly taught in that subject, or
 - (b) where there are two or more such groups, such one of them as may be designated by the head teacher of the school.

104 Curriculum requirements for foundation stage

For the foundation stage, the National Curriculum for Wales shall specify areas of learning, and may specify in relation to them—

- (a) the knowledge, skills and understanding which pupils of different abilities and maturities are expected to have by the end of the foundation stage (referred to in this Part as “desirable outcomes”),
- (b) the matters, skills and processes which are required to be taught to pupils of different abilities and maturities during the foundation stage (referred to in this Part as “educational programmes”), and
- (c) assessment arrangements.

105 Curriculum requirements for first, second and third key stages

- (1) For the first, second and third key stages, the National Curriculum for Wales shall comprise the core and other foundation subjects specified in subsections (2)

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and (3) and shall specify attainment targets, programmes of study and assessment arrangements in relation to each of those subjects for each stage.

- (2) The following are the core subjects for the first, second and third key stages—
- (a) mathematics,
 - (b) English,
 - (c) science, and
 - (d) in relation to Welsh-speaking schools, Welsh.
- (3) The following are the other foundation subjects for the first, second and third key stages—
- (a) technology,
 - (b) physical education,
 - (c) history,
 - (d) geography,
 - (e) art,
 - (f) music,
 - (g) Welsh, if the school is not a Welsh-speaking school, and
 - (h) in relation to the third key stage, a modern foreign language.
- (4) In this section “modern foreign language” means a modern foreign language specified in an order made by the National Assembly for Wales or, if the order so provides, any modern foreign language.
- (5) An order under subsection (4) may—
- (a) specify circumstances in which a language is not to be treated as a foundation subject for the third key stage, and
 - (b) provide for the determination under the order of any question arising as to whether a particular language is a modern foreign language.
- (6) The National Assembly for Wales may by order amend subsections (2) to (5).
- (7) For the purposes of this section a school is Welsh-speaking if more than one half of the following subjects are taught (wholly or partly) in Welsh—
- (a) religious education, and
 - (b) the subjects other than English and Welsh which are foundation subjects in relation to pupils at the school.
- (8) In this section “school” includes part of a school.

106 Curriculum requirements for fourth key stage

- (1) For the fourth key stage, the National Curriculum for Wales shall comprise the core and other foundation subjects and specify attainment targets, programmes of study and assessment arrangements in relation to each of them.
- (2) The following are the core subjects for the fourth key stage—
- (a) mathematics,
 - (b) English,
 - (c) science, and
 - (d) in relation to Welsh-speaking schools, Welsh.

- (3) The following are the other foundation subjects for the fourth key stage—
- (a) physical education, and
 - (b) Welsh, if the school is not a Welsh-speaking school.
- (4) For the purposes of this section a school is Welsh-speaking if more than one half of the following subjects are taught (wholly or partly) in Welsh—
- (a) religious education, and
 - (b) the subjects other than English and Welsh which are foundation subjects in relation to pupils at the school.
- (5) In this section “school” includes part of a school.

107 Power to alter or remove requirements for fourth key stage

The National Assembly for Wales may by order—

- (a) amend any provision of section 106, or
- (b) provide that, while the order remains in force, that section is not to have effect.

108 Establishment of the National Curriculum for Wales by order

- (1) The National Assembly for Wales shall so exercise the powers conferred by subsections (2) and (3) as to—
- (a) establish a complete National Curriculum for Wales for the foundation stage as soon as is reasonably practicable, and
 - (b) revise the National Curriculum for Wales for the foundation stage and the key stages whenever the Assembly considers it necessary or expedient to do so.
- (2) In respect of the foundation stage, the National Assembly for Wales—
- (a) shall by order specify the areas of learning, and
 - (b) may by order specify in relation to each of those areas—
 - (i) such desirable outcomes,
 - (ii) such educational programmes, and
 - (iii) such assessment arrangements,as the Assembly considers appropriate for that area.
- (3) In respect of the first, second and third key stages and (subject to section 107) the fourth key stage, the National Assembly for Wales may by order specify in relation to each of the foundation subjects—
- (a) such attainment targets,
 - (b) such programmes of study, and
 - (c) such assessment arrangements,
- as the Assembly considers appropriate for that subject.
- (4) An order under subsection (2) or (3) may not require—
- (a) the allocation of any particular period or periods of time during the foundation stage or any key stage to the teaching of any educational programme or programme of study or any matter, skill or process forming part of it, or
 - (b) the making in school timetables (or the timetables of any person providing funded nursery education) of provision of any particular kind for the periods to be allocated to such teaching during any such stage.

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- (5) An order under subsection (2) or (3) may, instead of containing the provisions to be made, refer to provisions in a document published as specified in the order and direct that those provisions are to have effect or, as the case may be, are to have effect as amended by the order.
- (6) An order under subsection (2)(b)(iii) may confer or impose such functions on—
- (a) the governing body and head teacher of a maintained school or a maintained nursery school,
 - (b) a person providing funded nursery education under the arrangements mentioned in section 98(2)(b),
 - (c) an early years development and childcare partnership, and
 - (d) a local education authority,
- as appear to the National Assembly for Wales to be required.
- (7) An order under subsection (3)(c) may confer or impose such functions on—
- (a) the governing body and head teacher, and
 - (b) the local education authority,
- as appear to the National Assembly for Wales to be required.
- (8) An order under subsection (2)(b)(iii) or (3)(c) may specify such assessment arrangements as may for the time being be made by a person specified in the order.
- (9) Provision shall be made for determining the extent to which any assessment arrangements, and the implementation of the arrangements, achieve the purpose for which the arrangements are made; and any such provision may be made by or under the order specifying the arrangements or (where the order specifies the person making the arrangements) in the arrangements themselves.
- (10) The duties that may be imposed by virtue of subsection (6) or (7) include, in relation to persons exercising any power in pursuance of provision made by virtue of subsection (9), the duty to permit them—
- (a) to enter premises of the school or, as the case may be, premises on which the funded nursery education is being provided,
 - (b) to observe implementation of the arrangements, and
 - (c) to inspect, and take copies of, documents and other articles.
- (11) An order under subsection (2)(b)(iii) or (3)(c) may authorise the making of such provisions giving full effect to or otherwise supplementing the provisions made by the order (other than provision conferring or imposing functions as mentioned in subsection (6) or (7)) as appear to the National Assembly for Wales to be expedient; and any provisions made under such an order shall, on being published as specified in the order, have effect for the purposes of this Part as if made by the order.

109 Implementation of the National Curriculum for Wales in schools

In relation to any maintained school and any school year—

- (a) the local education authority and the governing body shall exercise their functions with a view to securing, and
- (b) the head teacher shall secure,

that the National Curriculum for Wales as subsisting at the beginning of that year is implemented.

110 Implementation in respect of nursery schools etc.

- (1) In relation to any maintained nursery school and any school year—
 - (a) the local education authority and the governing body shall exercise their functions with a view to securing, and
 - (b) the head teacher shall secure,that the National Curriculum for Wales as subsisting at the beginning of that year (so far as it relates to the foundation stage) is implemented.
- (2) In relation to any school year, any person providing funded nursery education under the arrangements mentioned in section 98(2)(b) shall secure that the National Curriculum for Wales as subsisting at the beginning of that year is implemented (so far as it relates to the foundation stage) in respect of the pupils for whom the funded nursery education is provided.
- (3) The local education authority with whom the arrangements mentioned in section 98(2)(b) are made and the early years development and childcare partnership for the area of the authority shall exercise their respective functions with a view to securing that any person (other than the governing body of a maintained school or maintained nursery school) who provides funded nursery education complies with the obligation imposed by subsection (2).

The National Curriculum for Wales: special cases

111 Development work and experiments

- (1) For the purpose of enabling development work or experiments to be carried out, the National Assembly for Wales may direct in respect of a particular maintained school or maintained nursery school that, for such period as may be specified in the direction, the National Curriculum for Wales—
 - (a) shall not apply, or
 - (b) shall apply with such modifications as may be specified in the direction.
- (2) A direction under subsection (1) may apply either generally or in such cases as may be specified in the direction.
- (3) In the case of a community, voluntary controlled or community special school or a maintained nursery school, a direction shall not be given under subsection (1) except on an application—
 - (a) by the governing body with the agreement of the local education authority,
 - (b) by the local education authority with the agreement of the governing body, or
 - (c) by the Qualifications, Curriculum and Assessment Authority for Wales with the agreement of both the local education authority and the governing body.
- (4) In the case of a foundation, voluntary aided or foundation special school, a direction shall not be given under subsection (1) except on an application by the governing body or by the Qualifications, Curriculum and Assessment Authority for Wales with the agreement of the governing body.
- (5) The National Assembly for Wales may make it a condition of a direction under subsection (1) that any person by whom or with whose agreement the request for the direction was made should, when so directed or at specified intervals, report to the Assembly on any matters specified by it.

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- (6) The National Assembly for Wales may by a direction under this subsection vary or revoke a direction under subsection (1).

112 Exceptions by regulations

Regulations may provide that the National Curriculum for Wales, or such of the provisions of the National Curriculum for Wales as may be specified in the regulations—

- (a) shall not apply, or
- (b) shall apply with such modifications as may be specified in the regulations, in such cases or circumstances as may be specified in the regulations.

113 Pupils with statements of special educational needs

The special educational provision for any pupil specified in a statement under section 324 of the Education Act 1996 (c. 56) of his special educational needs may include provision—

- (a) excluding the application of the National Curriculum for Wales, or
- (b) applying the National Curriculum for Wales with such modifications as may be specified in the statement.

114 Temporary exceptions for individual pupils

- (1) Regulations may enable the head teacher of a maintained school or maintained nursery school, in such cases or circumstances and subject to such conditions as may be prescribed, to direct in respect of a registered pupil at the school that, for such period as may be specified in the direction (the “operative period” of the direction), the National Curriculum for Wales—
 - (a) shall not apply, or
 - (b) shall apply with such modifications as may be specified in the direction.
- (2) The conditions prescribed by the regulations shall, in particular, limit the operative period that may be specified in a direction to a maximum period specified in the regulations.
- (3) Any maximum period specified (whether in relation to directions given under the regulations or in relation to directions given under the regulations in circumstances specified in the regulations) shall be either—
 - (a) a fixed period not exceeding six months, or
 - (b) a period determinable (in such manner as may be specified in the regulations) not later than six months from its beginning.
- (4) Any maximum period so specified may, without prejudice to the generality of section 210(7) (which provides that regulations under this Act may make different provision for different cases or circumstances etc.), differ according to whether or not the direction in question is given in respect of a period beginning—
 - (a) immediately after the end of the operative period of a previous direction, or
 - (b) within such period after the end of the operative period of a previous direction as may be specified in the regulations.

- (5) The regulations may enable the head teacher of a maintained school or maintained nursery school, in such cases or circumstances and subject to such conditions as may be prescribed—
 - (a) to revoke any direction given by him under the regulations, and
 - (b) to vary such a direction, except so as to extend its operative period.
- (6) Before making any regulations under this section, the National Assembly for Wales shall consult with any persons with whom consultation appears to it to be desirable.

115 Information concerning directions under section 114

- (1) Where a head teacher gives or varies a direction under regulations made under section 114, he shall, in such manner as may be prescribed, give the information mentioned in subsection (2)—
 - (a) to the governing body, and
 - (b) to the local education authority by whom the school is maintained,and shall take such steps as may be prescribed to give that information also to a parent of the pupil concerned.
- (2) That information is—
 - (a) the fact that he has taken the action in question, its effect and his reasons for taking it,
 - (b) the provision that is being or is to be made for the pupil's education during the operative period of the direction, and
 - (c) either a description of the manner in which he proposes to secure the full implementation of the National Curriculum for Wales in relation to the pupil after the end of that period, or an indication that he has the opinion mentioned in subsection (3).
- (3) That opinion is that the pupil has or probably has special educational needs by virtue of which the responsible authority would be required to determine the special educational provision that should be made for him (whether initially or on a review of any statement of his special educational needs which the authority are for the time being required under section 324 of the Education Act 1996 (c. 56) to maintain).
- (4) Where—
 - (a) the head teacher of a maintained school or maintained nursery school includes an indication of any such opinion in information given under subsection (1), and
 - (b) the local education authority by whom the school is maintained are not the responsible authority in relation to the pupil in question,the head teacher shall also give that information, in such manner as may be prescribed, to the responsible authority.
- (5) Where the responsible authority receive information given to them under subsection (1) or (4) which includes an indication that the head teacher has the opinion mentioned in subsection (3), they shall consider whether any action on their part is required in the case of the pupil concerned under section 323 of the Education Act 1996 (c. 56) (assessment of special educational needs).

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- (6) In this section “the responsible authority”, in relation to a pupil, means the local education authority responsible for him for the purposes of Part 4 of the Education Act 1996.

116 Appeals against directions under section 114 etc.

- (1) Where a head teacher—
- (a) gives, revokes or varies a direction under regulations made under section 114,
 - (b) refuses to give, revoke or vary such a direction in response to a request made, in such manner and circumstances as may be prescribed by the regulations, by the parent of a registered pupil at the school, or
 - (c) following the making of such a request, fails within such period as may be prescribed by the regulations to give, revoke or vary such a direction in accordance with the request,
- the parent of the pupil concerned may appeal to the governing body.
- (2) On such an appeal, the governing body may—
- (a) confirm the head teacher’s action, or
 - (b) direct the head teacher to take such action authorised by the regulations as they consider appropriate in the circumstances.
- (3) The head teacher shall comply with any directions of the governing body given under subsection (2)(b).
- (4) The governing body shall notify the appellant and the head teacher in writing of their decision on such an appeal.

Supplementary provisions

117 Procedure for making certain orders and regulations

Where the National Assembly for Wales proposes to make—

- (a) an order under section 103(4), 105(6), 108(2)(a) or (b)(i) or (ii) or (3)(a) or (b), or
- (b) regulations under section 112,

the Assembly shall make such arrangements for consultation about the proposals as the Assembly considers appropriate.

118 Programmes of research etc in relation to Wales

The National Assembly for Wales may incur expenses in connection with the commissioning by the Assembly of such work, including programmes of research, development and dissemination, as it may require to be carried out for the purpose of facilitating the discharge of any of the Assembly’s functions under sections 102 to 108.