

*These notes refer to the Education Act 2002 (c.32)
which received Royal Assent on 24 July 2002*

EDUCATION ACT 2002

EXPLANATORY NOTES

COMMENTARY ON SECTIONS AND SCHEDULES

Part 7 – the Curriculum in Wales

Preliminary

Sections 97 and 98

238. This Part re-enacts sections 350 to 368 of the EA 96 in their application to Wales, together with section 369 of that Act (which relates only to Wales). It thereby makes provision for a separate National Curriculum for Wales.

Sections 97 and 98: Interpretation of Part; meaning of “nursery education” and related expressions

239. These sections are similar to sections 76 and 77 except that they apply to Wales.

General duties in respect of the curriculum

Sections 99 to 101

Sections 99 and 100: General requirements in relation to the curriculum and duty to implement general requirements

240. These sections re-enact section 351 of the EA 96 except that section 100 requires LEAs and governing bodies to have regard to the NAW’s guidance in exercising any functions in relation to any forms of education added to the basic curriculum by an order under section 101.

Section 101: Basic curriculum for every maintained school in Wales

241. This section re-enacts section 352 of the EA 96, listing those elements (currently RE and sex education for certain pupils), which must be provided as part of the basic curriculum in addition to the National Curriculum for Wales.
242. There is a new order making power for the NAW to add to the list further requirements, otherwise than in relation to RE or sex education. This new power also enables the NAW subsequently to amend or repeal anything that is added to the list of further requirements (apart from RE or sex education). The power allows a more flexible way to change statutory requirements than via the National Curriculum for Wales, which has a distinct framework of key stages, attainment targets, programmes of study and assessment arrangements. This would enable new statutory requirements for 14-16 year olds to be introduced. These would be different in nature from the academic subjects which now make up the National Curriculum for Wales.

The National Curriculum for Wales

Sections 102 to 110

Sections 102 and 103: The foundation stage; The key stages in Wales

243. These sections re-enact section 355 of the EA 96. They set out the key stages in relation to a pupil, which are defined according to age. For example key stage 2 begins when the majority of children in a pupil's class reach eight and ends when the majority of pupils in a class reach eleven. They also provide for the period of the new foundation stage of the National Curriculum for Wales to be set out in an order of the NAW.

Section 104: Curriculum requirements for the foundation stage

244. This is a new provision which provides that the foundation stage of the National Curriculum for Wales shall comprise areas of learning and, in respect of those areas, desirable outcomes, educational programmes and assessment arrangements. These are specified in an order made by the NAW under section 108(2).

Sections 105 to 107: The key stages in Wales and the power to alter or remove requirements for the fourth key stage

245. **Sections 105** and **106** re-enact sections 353 and 354 of the EA 96, listing the subjects which are compulsory at each key stage, but in relation to key stages 1, 2 and 3 only and stating that the National Curriculum shall specify attainment targets, programmes of study and assessment arrangements in relation to each subject for each key stage. Section 107 adds a broad power to alter or remove requirements for the fourth key stage.
246. The requirements of the National Curriculum are now described separately in relation to the foundation stage, key stages 1 to 3 and key stage 4. This will allow for different provisions to apply at each stage. Separating out key stage 4 from the others allows for new requirements for this age group to be introduced in the future.

Section 108: Establishment of the National Curriculum for Wales by order

247. This largely re-enacts section 356 of the EA 96 for key stage 4. It requires the NAW, by order, to specify areas of learning in respect of the foundation stage of the National Curriculum for Wales, and (in relation to each of those areas of learning) desirable outcomes, educational programmes and assessment arrangements. Similarly it has power in relation to the 4 key stages to specify the attainment targets, programmes of study and assessment arrangements which it considers appropriate for each subject.

Section 109: Implementation of the National Curriculum for Wales in schools

248. This re-enacts section 357 of the EA 96 in relation to Wales. It places a duty on LEAs, governing bodies and head teachers to ensure that the National Curriculum for Wales is implemented in maintained schools. This includes a new duty in respect of primary schools with nursery pupils in respect of the foundation stage.

Section 110: Implementation in respect of nursery schools etc.

249. This extends the duty to ensure that the foundation stage of the National Curriculum is implemented to include head teachers, LEAs, and all providers who are currently receiving Government early years education funding.

The National Curriculum for Wales: special cases

Sections 111 to 116

Sections 111 to 116

250. These sections re-enact sections 362-367 of the EA 96 for Wales.

Supplementary provisions

Sections 117 and 118

Section 117: Procedure for making certain orders and regulations

251. This section requires the NAW to make such arrangements as it considers appropriate for consultation about proposals to make an order under section 103(4), 105(6), 108(2) (a) or (b)(i) or (ii) or (3)(a) or (b); or regulations under section 112.

Section 118: Programmes of research etc in relation to Wales

252. This section re-enacts section 369 of the EA 96 for Wales, which enables the NAW to fund research and development relating to its National Curriculum functions.