Status: *Point in time view as at 05/05/2010. This version of this Measure contains provisions that are not valid for this point in time.*
Changes to legislation: *Education (Wales) Measure 2009 is up to date with all changes known to be in force on or before 10 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

Education (Wales) Measure 2009

2009 nawm 5

A Measure of the National Assembly for Wales to make provision for children to have a right of appeal in respect of special educational needs, and a right to make a claim in respect of disability discrimination in schools, to the Special Educational Needs Tribunal for Wales; to make provision for the following in relation to special educational needs and disability discrimination in schools: advice and information services, arrangements for dispute resolution other than by appeals and claims to the Special Educational Needs Tribunal for Wales, and independent advocacy services; to make provision for piloting of the provisions of Part 1 of this Measure; to make provision about the curriculum in schools in Wales; and for connected purposes.

This Measure, passed by the National Assembly for Wales on 3 November 2009 and approved by Her Majesty in Council on 9 December, enacts the following provisions:—

VALID FROM 11/06/2011

PART 1

EDUCATION APPEALS AND CLAIMS BY CHILDREN

VALID FROM 10/02/2012

Special educational needs appeals

VALID FROM 06/03/2012

1 Right of a child to appeal in respect of special educational needs

(1) The Education Act 1996 (c. 56) is amended in accordance with this section.

Status: *Point in time view as at 05/05/2010. This version of this Measure contains provisions that are not valid for this point in time.*
Changes to legislation: *Education (Wales) Measure 2009 is up to date with all changes known to be in force on or before 10 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(2) After section 332 insert—

"Appeals by children

332ZA Right of a child to appeal to the Welsh Tribunal

(1) This section applies to the rights of a parent of a child to appeal to the Welsh Tribunal under any of the following provisions—
- (a) section 325(2) (appeal against decision not to make statement);
- (b) section 326(1) (appeal against contents of statement);
- (c) section 328(3)(b) (reviews of educational needs);
- (d) section 329(2)(b) (assessment of educational needs at request of child's parent);
- (e) section 329A(8)(b) (review of assessment of educational needs at request of responsible body);
- (f) paragraph 8(3)(b) of Schedule 27 (change of named school);
- (g) paragraph 11(2)(b) of Schedule 27 (ceasing to maintain a statement).

(2) The child may exercise the rights conferred on the parent in respect of that child.

(3) The child's rights are exercisable concurrently with the parent's rights.

(4) The exercise of rights under this section is subject to provision made by regulations under sections 332ZC and 336(1).".

VALID FROM 06/03/2012

2 Notice and service of documents

(1) The Education Act 1996 (c. 56) is amended in accordance with this section.

(2) After section 332ZA insert—

"**332ZB Notice and service of documents on a child**

(1) This section applies if a **[**[F1]local authority**]** in Wales is required to give notice to or serve a document on a parent of a child under any of the following provisions—
- (a) section 325 (appeal against decision not to make statement);
- (b) section 328 (reviews of educational needs);
- (c) section 329 (assessment of educational needs at request of child's parent);
- (d) section 329A(8) (review or assessment of educational needs at request of responsible body);
- (e) paragraph 3 of Schedule 26 (manner and timing of assessments);
- (f) paragraph 2A of Schedule 27 (amendments to a statement);

Status: *Point in time view as at 05/05/2010. This version of this Measure contains provisions that are not valid for this point in time.*
Changes to legislation: *Education (Wales) Measure 2009 is up to date with all changes known to be in force on or before 10 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(g) paragraph 2B(2) of Schedule 27 (provision of additional information);
(h) paragraph 6 of Schedule 27 (service of statement);
(i) paragraph 8 of Schedule 27 (change of named school);
(j) paragraph 11 of Schedule 27 (ceasing to maintain a statement).

(2) The **[**[F1]local authority**]**must give notice to, or serve the document on, the child as well as on the parent.

(3) Any provision applicable to notices given to or documents served on a parent applies equally to notices given to or documents served on a child.”.

Textual Amendments

F1 Words in Measure substituted (5.5.2010) by Local Education Authorities and Children’s Services Authorities (Integration of Functions) (Wales) Order 2010 (S.I. 2010/1148), arts. 1, **5(2)**

3 Case friends

(1) The Education Act 1996 (c. 56) is amended in accordance with this section.

(2) After section 332ZB insert—

“332ZC Case friends — Wales

(1) The Welsh Ministers may provide by regulations for a child to have a person (referred to in this Part as a “case friend”)—
(a) to make representations on behalf of a child with a view to avoiding or resolving disagreements about the exercise by local education authorities in Wales of functions under this Part, and
(b) to exercise the rights of a child under section 332ZA on the child's behalf.

(2) A child's case friend must—
(a) make representations and exercise rights fairly and competently,
(b) have no interest adverse to that of the child;
(c) ensure that all steps and decisions taken by the case friend are for the benefit of the child and take account of the child's views.

(3) Regulations made under this section may (among other things)—
(a) confer functions on the Welsh Tribunal;
(b) make provision about procedures in relation to case friends;
(c) make provision about the appointment and removal of case friends;
(d) specify the circumstances in which a person may or may not act as a case friend;
(e) specify the circumstances in which a child must have a case friend;
(f) specify further requirements in respect of the conduct of case friends.”.

Status: *Point in time view as at 05/05/2010. This version of this Measure contains provisions that are not valid for this point in time.*
Changes to legislation: *Education (Wales) Measure 2009 is up to date with all changes known to be in force on or before 10 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

VALID FROM 06/03/2012

4 Advice and information

(1) The Education Act 1996 (c. 56) is amended in accordance with this section.

(2) In section 332A (advice and information for parents)—

(a) in the heading, after the word "parents" insert " — England ";

(b) in subsection (1), after the words "**[**[F1]local authority**]**" insert " in England ";

(c) in subsection (2), for "given—" substitute " given by the Secretary of State. ";

(d) in subsection (2), omit paragraphs (a) and (b).

(3) After section 332A insert—

"**332AA Advice and information — Wales**

(1) A **[**[F1]local authority**]** in Wales must arrange for any child in their area with special educational needs, for a parent of any such child and for a case friend for any such child, to be provided with advice and information about matters relating to those needs.

(2) In making the arrangements, the authority must have regard to any guidance given by the Welsh Ministers.

(3) The arrangements must comply with any provisions made in regulations by the Welsh Ministers that relate to the arrangements.

(4) The authority must take such steps as they consider appropriate for making the services provided under subsection (1) known to—

(a) children in their area,

(b) parents of children in their area,

(c) head teachers and proprietors of schools in their area, and

(d) such other persons as they consider appropriate.".

Textual Amendments

F1 Words in Measure substituted (5.5.2010) by Local Education Authorities and Children's Services Authorities (Integration of Functions) (Wales) Order 2010 (S.I. 2010/1148), arts. 1, **5(2)**

VALID FROM 06/03/2012

5 Resolution of disputes

(1) Section 332B of the Education Act 1996 (c. 56) is amended in accordance with subsection (2).

Status: *Point in time view as at 05/05/2010. This version of this Measure contains provisions that are not valid for this point in time.*
Changes to legislation: *Education (Wales) Measure 2009 is up to date with all changes known to be in force on or before 10 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(2) In section 332B (resolution of disputes)—

(a) in the heading, after the word "disputes" insert " — England ";

(b) in subsections (1) and (2), after the words "**[**[F1]local authority**]**" insert " in England ";

(c) in subsection (4), for "given—"substitute " given by the Secretary of State. ";

(d) in subsection (4), omit paragraphs (a) and (b).

(3) After section 332B insert—

"**332BA Resolution of disputes — Wales**

(1) A **[**[F1]local authority**]** in Wales must make arrangements with a view to avoiding or resolving disagreements between—

(a) authorities and children in their area about the exercise by authorities of functions under this Part, and

(b) authorities and parents of children in their area about the exercise by authorities of functions under this Part.

(2) A **[**[F1]local authority**]** in Wales must also make arrangements with a view to avoiding or resolving, in each relevant school, disagreements between—

(a) a relevant child and the proprietor of the school about the special educational provision made for that child, and

(b) the parents of a relevant child and the proprietor of the school about the special educational provision made for that child.

(3) The arrangements must provide for the appointment of independent persons with the functions of facilitating the avoidance or resolution of such disagreements.

(4) In making the arrangements, the authority must have regard to any guidance given by the Welsh Ministers.

(5) The arrangements must comply with any provisions made in regulations by the Welsh Ministers that relate to the arrangements.

(6) The authority must take such steps as they consider appropriate for making the arrangements under subsections (1) and (2) known to—

(a) children in their area,

(b) parents of children in their area,

(c) head teachers and proprietors of schools in their area, and

(d) such other persons as they consider appropriate.

(7) The arrangements cannot affect the entitlement of a child or a parent of a child to appeal to the Tribunal, and the authority must take such steps as they consider appropriate to make that fact known to children, to parents of children and to case friends for children in their area.

(8) In this section—

"authorities" means the governing bodies of maintained schools and the **[**[F1]local authority**]**;

Status: *Point in time view as at 05/05/2010. This version of this Measure contains provisions that are not valid for this point in time.*
Changes to legislation: *Education (Wales) Measure 2009 is up to date with all changes known to be in force on or before 10 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

"relevant child" means a child who has special educational needs and is a registered pupil at a relevant school.

(9) For the purposes of this section a school is a relevant school in relation to a child if it is—

(a) a maintained school or a maintained nursery school,

(b) a pupil referral unit,

(c) an independent school named in the statement maintained for the child under section 324, or

(d) a school approved under section 342.".

Textual Amendments

F1 Words in Measure substituted (5.5.2010) by Local Education Authorities and Children's Services Authorities (Integration of Functions) (Wales) Order 2010 (S.I. 2010/1148), arts. 1, **5(2)**

VALID FROM 06/03/2012

6 Independent advocacy services

(1) The Education Act 1996 (c. 56) is amended in accordance with this section.

(2) After section 332BA insert the following—

"**332BB Independent advocacy services — Wales**

(1) Every **[**[F1]local authority**]** in Wales must—

(a) make arrangements for the provision of independent advocacy services in their area;

(b) refer any child in their area who requests independent advocacy services to a service provider;

(c) refer any person who is a case friend for a child in their area and who requests independent advocacy services to a service provider.

(2) In this section "independent advocacy services" are services providing advice and assistance (by way of representation or otherwise) to a child—

(a) making, or intending to make an appeal to the Tribunal under section 332ZA, or

(b) considering whether to appeal to the Tribunal under that section, or

(c) taking part in or intending to take part in dispute resolution arrangements made under section 332BA.

(3) In making arrangements under this section, every **[**[F1]local authority**]** must have regard to the principle that any services provided under the arrangements must be independent of any person who is—

(a) the subject of an appeal to the Tribunal, or

Status: *Point in time view as at 05/05/2010. This version of this Measure contains provisions that are not valid for this point in time.*
Changes to legislation: *Education (Wales) Measure 2009 is up to date with all changes known to be in force on or before 10 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(b) involved in investigating or adjudicating on such an appeal.

(4) The arrangements must comply with any provisions made in regulations by the Welsh Ministers that relate to the arrangements.

(5) Every **[**[F1]local authority**]** in Wales must take such steps as they consider appropriate for making the arrangements under this section known to—

(a) children in their area,

(b) parents of children in their area,

(c) head teachers and proprietors of schools in their area, and

(d) such other persons as they consider appropriate.

(6) The arrangements may include provision for payments to be made to, or in relation to, any person carrying out functions in accordance with the arrangements.

(7) A **[**[F1]local authority**]** must have regard to any guidance given from time to time by the Welsh Ministers.”.

Textual Amendments

F1 Words in Measure substituted (5.5.2010) by Local Education Authorities and Children’s Services Authorities (Integration of Functions) (Wales) Order 2010 (S.I. 2010/1148), arts. 1, **5(2)**

7 Tribunal procedure

(1) Section 336 of The Education Act 1996 (c. 56) is amended in accordance with this section.

(2) At the end of subsection (2)(n), leave out “and”.

(3) After subsection (2)(o) insert—

“(p) enabling the Welsh Tribunal to stay proceedings on an appeal, and

(q) for adding and substituting parties.”.

8 Procedures for making regulations

(1) Section 569 (regulations) of the Education Act 1996 (c. 56) is amended in accordance with this section.

(2) In subsection (1), after “Secretary of State” insert “ or the Welsh Ministers ”.

(3) In subsection (2), after “Act” insert “ made by the Secretary of State ”.

(4) After subsection (2A) insert—

“(2B) A statutory instrument containing regulations under sections 332ZC, 332AA, 332BA, 332BB or 336 made by the Welsh Ministers is subject to annulment in pursuance of a resolution of the National Assembly for Wales.

(2C) Paragraphs 33 to 35 of Schedule 11 to the Government of Wales Act 2006 make provision about the National Assembly for Wales procedures that apply to any statutory instrument containing regulations or an order

Status: *Point in time view as at 05/05/2010. This version of this Measure contains provisions that are not valid for this point in time.*
Changes to legislation: *Education (Wales) Measure 2009 is up to date with all changes known to be in force on or before 10 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

made in exercise of functions conferred upon the Secretary of State or the National Assembly for Wales by this Act that have been transferred to the Welsh Ministers by virtue of paragraph 30 of that Schedule.”.

(5) In subsection (4) after “thinks fit” insert “ or the Welsh Ministers think fit ”.

VALID FROM 10/02/2012

Disability discrimination claims

VALID FROM 06/03/2012

[F2 9 Right of a child to make a disability discrimination claim

(1) Schedule 17 to the Equality Act 2010 is amended in accordance with this section.

(2) In the heading to paragraph 3 (jurisdiction), after “*Jurisdiction*” insert “*— England and Wales*”.

(3) After paragraph 3 insert—

“3A *Jurisdiction — Wales*

(1) A claim that a responsible body for a school in Wales has contravened Chapter 1 of Part 6 in relation to a person because of disability may be made to the Tribunal by that person (“the relevant person”).

(2) But this paragraph does not apply to a claim to which paragraph 13 or 14 applies.

(3) The relevant person’s right to claim is exercisable concurrently with the right of the relevant person’s parent under paragraph 3.

(4) The exercise of rights under this paragraph is subject to provision made by regulations under paragraphs 6 and 6A.”.**]**

Textual Amendments

F2 S. 9 substituted (6.7.2011) by The Right of a Child to Make a Disability Discrimination Claim (Schools) (Wales) Order 2011 (S.I. 2011/1651), arts. 1(2), **3**

VALID FROM 06/03/2012

[F3 10 [F3 Time for bringing proceedings]

(1) Schedule 17 to the Equality Act 2010 is amended in accordance with this section.

(2) In paragraph 4 (time for bringing proceedings), after sub-paragraph (2), insert—

Status: *Point in time view as at 05/05/2010. This version of this Measure contains provisions that are not valid for this point in time.*
Changes to legislation: *Education (Wales) Measure 2009 is up to date with all changes known to be in force on or before 10 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

"(2A) If, in relation to proceedings or prospective proceedings on a claim under paragraph 3 or 3A, the dispute is referred for resolution in pursuance of arrangements under paragraph 6C or for conciliation in pursuance of arrangements under section 27 of the Equality Act 2006 before the end of the period of 6 months mentioned in sub-paragraph (1), that period is extended by 3 months.".**]**

Textual Amendments

F3 S. 10 substituted (6.7.2011) by The Right of a Child to Make a Disability Discrimination Claim (Schools) (Wales) Order 2011 (S.I. 2011/1651), arts. 1(2), **4**

[[F4]11 [[F4]Tribunal procedure]]

(1) Schedule 17 to the Equality Act 2010 is amended in accordance with this section.

(2) In paragraph 6 (procedure)—

(a) in sub-paragraph (2)(a), after "paragraph 3" insert "or 3A";

(b) after sub-paragraph (3)(c), insert "(ca) for adding and substituting parties;".**]**

Textual Amendments

F4 S. 11 substituted (6.7.2011) by The Right of a Child to Make a Disability Discrimination Claim (Schools) (Wales) Order 2011 (S.I. 2011/1651), arts. 1(2), **5**

[[F5]12 [[F5]Case friends]]

(1) Schedule 17 to the Equality Act 2010 is amended in accordance with this section.

(2) After paragraph 6 (procedure) insert—

"6A *Case friends — Wales*

(1) The Welsh Ministers may by regulations provide for—

(a) a disabled child in a local authority area in Wales to have a person to make representations on behalf of the disabled child with a view to avoiding or resolving disagreements about contraventions of Chapter 1 of Part 6; and

(b) a relevant person (within the meaning of paragraph 3A) to have another person to exercise the relevant person's rights under that paragraph on the relevant person's behalf.

(2) A person exercising rights or making representations on behalf of a disabled child or a relevant person under sub-paragraph (1) is referred to in this Schedule as a "case friend".

(3) A case friend must—

(a) make representations and exercise rights fairly and competently;

(b) have no interest adverse to that of the disabled child or relevant person;

Status: *Point in time view as at 05/05/2010. This version of this Measure contains provisions that are not valid for this point in time.*
Changes to legislation: *Education (Wales) Measure 2009 is up to date with all changes known to be in force on or before 10 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(c) ensure that all steps and decisions taken by the case friend are for the benefit of the disabled child or relevant person and take account of the disabled child or relevant person's views.

(4) Regulations made under this paragraph may (among other things)—

(a) confer functions on the Welsh Tribunal;

(b) make provision about procedures in relation to case friends;

(c) make provision about the appointment and removal of case friends;

(d) specify the circumstances in which a person may or may not act as a case friend;

(e) specify the circumstances in which a relevant person (within the meaning of paragraph 3A) must have a case friend;

(f) specify further requirements in respect of the conduct of case friends.

(5) In this paragraph and in paragraphs 6B, 6C, 6D and 6E, "local authority" has the meaning given in section 89(10).

(6) In this paragraph and in paragraphs 6B, 6C and 6D—

"disabled child" means any disabled person who is a pupil (or a prospective pupil) of—

(a) a maintained school or maintained nursery school,

(b) a pupil referral unit,

(c) an independent school, or

(d) a special school not maintained by a local authority;

"proprietor" has the meaning given in section 89(4);

"school" has the meanings given in section 89(5).

(7) In sub-paragraph (6)—

"independent school" has the meaning given in section 89(8);

"maintained school" has the meaning given in section 20(7) of the School Standards and Framework Act 1998;

"maintained nursery school" has the meaning given in section 22(9) of the

School Standards and Framework Act 1998

"pupil" has the meanings given in section 89(3);

"pupil referral unit" has the meaning given in section 19 of the Education Act 1996; and

"special school" has the meaning given in section 89(9).".**]**

Textual Amendments

F5 S. 12 substituted (6.7.2011) by The Right of a Child to Make a Disability Discrimination Claim (Schools) (Wales) Order 2011 (S.I. 2011/1651), arts. 1(2), **6**

Status: *Point in time view as at 05/05/2010. This version of this Measure contains provisions that are not valid for this point in time.*
Changes to legislation: *Education (Wales) Measure 2009 is up to date with all changes known to be in force on or before 10 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

VALID FROM 06/03/2012

[F6 13 [F6 Advice and information]

(1) Schedule 17 to the Equality Act 2010 is amended in accordance with this section.

(2) After paragraph 6A (case friends — Wales) insert—

"6B *Advice and information — Wales*

(1) A local authority in Wales must arrange for any disabled child in its area and for the case friend of any such child to be provided with advice and information about matters relating to disability discrimination in schools.

(2) In making the arrangements, the local authority must have regard to any guidance given by the Welsh Ministers.

(3) The arrangements must comply with any provisions made in regulations by the Welsh Ministers that relate to the arrangements.

(4) The local authority must take such steps as it considers appropriate for making the services provided under sub-paragraph (1) known to—

(a) disabled children in its area,

(b) parents of disabled children in its area,

(c) head teachers and proprietors of schools in its area, and

(d) such other persons as it considers appropriate.".**]**

Textual Amendments

F6 S. 13 substituted (6.7.2011) by The Right of a Child to Make a Disability Discrimination Claim (Schools) (Wales) Order 2011 (S.I. 2011/1651), arts. 1(2), 7

VALID FROM 06/03/2012

[F7 14 [F7 Resolution of disputes]

(1) Schedule 17 to the Equality Act 2010 is amended in accordance with this section.

(2) After paragraph 6B (advice and information — Wales) insert—

"6C *Resolution of disputes — Wales*

(1) A local authority in Wales must make arrangements with a view to avoiding or resolving disagreements between responsible bodies and disabled children in its area about contraventions of Chapter 1 of Part 6.

(2) The arrangements must provide for the appointment of independent persons with the functions of facilitating the avoidance or resolution of such disagreements.

(3) In making the arrangements, the local authority must have regard to any guidance given by the Welsh Ministers.

Status: *Point in time view as at 05/05/2010. This version of this Measure contains provisions that are not valid for this point in time.*
Changes to legislation: *Education (Wales) Measure 2009 is up to date with all changes known to be in force on or before 10 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(4) The arrangements must comply with any provisions made in regulations by the Welsh Ministers that relate to the arrangements.

(5) The local authority must take such steps as it considers appropriate for making the arrangements under sub-paragraph (1) known to—

(a) disabled children in its area,

(b) parents of disabled children in its area,

(c) head teachers and proprietors of schools in its area, and

(d) such other persons as it considers appropriate.

(6) The arrangements cannot affect the entitlement of any person to make a claim to the Tribunal, and the local authority must take such steps as it considers appropriate to make that fact known to disabled children, to parents of disabled children and to case friends for disabled children in its area.”.**]**

Textual Amendments

F7 S. 14 substituted (6.7.2011) by The Right of a Child to Make a Disability Discrimination Claim (Schools) (Wales) Order 2011 (S.I. 2011/1651), arts. 1(2), **8**

VALID FROM 06/03/2012

[F8 15 [F8 Independent advocacy services]

(1) Schedule 17 to the Equality Act 2010 is amended in accordance with this section.

(2) After paragraph 6C (resolution of disputes — Wales) insert—

“6D *Independent advocacy services — Wales*

(1) Every local authority in Wales must—

(a) make arrangements for the provision of independent advocacy services in its area;

(b) refer any disabled child in its area who requests independent advocacy services to a service provider;

(c) refer any person who is a case friend for a disabled child in its area and who requests independent advocacy services to a service provider.

(2) In this paragraph “independent advocacy services” are services providing advice and assistance (by way of representation or otherwise) to a disabled child who is—

(a) making, or intending to make a claim that a responsible body has contravened Chapter 1 of Part 6 because of the child’s disability; or

(b) considering whether to make such a claim; or

(c) taking part in or intending to take part in dispute resolution arrangements made under paragraph 6C.

Status: *Point in time view as at 05/05/2010. This version of this Measure contains provisions that are not valid for this point in time.*
Changes to legislation: *Education (Wales) Measure 2009 is up to date with all changes known to be in force on or before 10 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(3) In making arrangements under this paragraph, every local authority must have regard to the principle that any services provided under the arrangements must be independent of any person who is—
  (a) the subject of a claim to the Tribunal, or
  (b) involved in investigating or adjudicating on such a claim.

(4) The arrangements must comply with any provisions made in regulations by the Welsh Ministers that relate to the arrangements.

(5) Every local authority in Wales must take such steps as it considers appropriate for making the arrangements under this paragraph known to—
  (a) disabled children in its area,
  (b) parents of disabled children in its area,
  (c) head teachers and proprietors of schools in its area, and
  (d) such other persons as it considers appropriate.

(6) The arrangements may include provision for payments to be made to, or in relation to, any person carrying out functions in accordance with the arrangements.

(7) A local authority must have regard to any guidance given from time to time by the Welsh Ministers.”.**]**

Textual Amendments

F8 S. 15 substituted (6.7.2011) by The Right of a Child to Make a Disability Discrimination Claim (Schools) (Wales) Order 2011 (S.I. 2011/1651), arts. 1(2), **9**

VALID FROM 06/03/2012

[F9 16 [F9 Role of Welsh Ministers]

(1) Schedule 17 to the Equality Act 2010 is amended in accordance with this section.

(2) After paragraph 6D (independent advocacy services — Wales) insert—

“6E *Power of direction — Wales*

(1) If the Welsh Ministers are satisfied (whether on a complaint or otherwise) that a local authority—
  (a) has acted, or is proposing to act, unreasonably in the discharge of a duty imposed by or under paragraph 6B, 6C or 6D, or
  (b) has failed to discharge a duty imposed by or under any of those paragraphs,

they may give that local authority such directions as to the discharge of the duty as appear to them to be expedient.

(2) A direction may be given under sub-paragraph (1) even if the performance of the duty is contingent on the opinion of the local authority.

Status: *Point in time view as at 05/05/2010. This version of this Measure contains provisions that are not valid for this point in time.*
Changes to legislation: *Education (Wales) Measure 2009 is up to date with all changes known to be in force on or before 10 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(3) A direction—

(a) may be varied or revoked by the Welsh Ministers;

(b) may be enforced, on the application of the Welsh Ministers, by a mandatory order obtained in accordance with section 31 of the Senior Courts Act 1981.”.**]**

Textual Amendments

F9 S. 16 substituted (6.7.2011) by The Right of a Child to Make a Disability Discrimination Claim (Schools) (Wales) Order 2011 (S.I. 2011/1651), arts. 1(2), **10**

VALID FROM 10/02/2012

Piloting

17 Piloting the rights of a child to appeal or make a claim

(1) The Welsh Ministers may by regulations provide for the piloting of the provisions of the Education Act 1996 (c. 56) and the **[**[F10]Equality Act 2010 (c. 15)**]** as amended by this Part for a period specified in the regulations of up to 40 months (“the pilot period”).

(2) Regulations under subsection (1) may provide (among other things)—

(a) that the rights of a child conferred by amendments made to the Education Act 1996 by this Part apply only to children for whom specified local authorities are responsible;

(b) that any duty imposed on a local authority by amendments made to the Education Act 1996 by this Part applies only to specified local authorities;

(c) that the rights of a person conferred by amendments made to the **[**[F11]Equality Act 2010**]** by this Part apply only to a body responsible for a school in specified areas;

(d) that any duty imposed on a local authority by amendments made to the **[**[F12]Equality Act 2010**]** by this Part applies only to specified local authorities;

(e) for reports or other information on the operation of piloted provisions to be provided to the Welsh Ministers by the Welsh Tribunal, local authorities specified under paragraphs (a), (b) or (d) or bodies responsible for schools in areas specified under paragraph (c).

(3) The Welsh Ministers must—

(a) publish a report of how the piloted provisions were implemented and how effective they were in promoting the well-being of children, and

(b) lay a copy of the report before the National Assembly for Wales.

(4) A report under subsection (3) may be laid before the National Assembly for Wales before the end of the pilot period; but it may not be laid on a date less than 12 months after the start of the pilot period.

Status: *Point in time view as at 05/05/2010. This version of this Measure contains provisions that are not valid for this point in time.*
Changes to legislation: *Education (Wales) Measure 2009 is up to date with all changes known to be in force on or before 10 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(5) A report under subsection (3) must be laid before the National Assembly for Wales no later than 30 months after regulations under this section come into force.

Textual Amendments

F10 Words in s. 17(1) substituted (6.7.2011) by The Right of a Child to Make a Disability Discrimination Claim (Schools) (Wales) Order 2011 (S.I. 2011/1651), arts. 1(2), **11(a)**

F11 Words in s. 17(2)(c) substituted (6.7.2011) by The Right of a Child to Make a Disability Discrimination Claim (Schools) (Wales) Order 2011 (S.I. 2011/1651), arts. 1(2), **11(b)(i)**

F12 Words in s. 17(2)(d) substituted (6.7.2011) by The Right of a Child to Make a Disability Discrimination Claim (Schools) (Wales) Order 2011 (S.I. 2011/1651), arts. 1(2), **11(b)(ii)**

18 Power to make provision about appeals and claims by a child

(1) The Welsh Ministers may by order make provision about—

(a) the rights of a child to appeal to the Welsh Tribunal in respect of matters for which a parent has a right to appeal under Part 4 of the Education Act 1996;

(b) the right of a person to make a claim to the Welsh Tribunal in respect of matters for which a parent of that person has a right to make a claim under **[**[F13]paragraph 3 of Schedule 17 to the Equality Act 2010**]**;

(c) any matter connected to such rights;

(d) provision of advice and information to children about matters relating to special educational needs;

(e) provision of advice and information to disabled children about matters relating to disability discrimination in schools;

(f) advocacy services about special educational needs or disability discrimination in schools;

(g) arrangements with a view to avoiding or resolving disagreements between—

(i) a **[**[F1]local authority**]** (on the one hand) and a child (on the other) about the exercise by authorities of functions under Part 4 of the Education Act 1996;

(ii) the proprietor of a relevant school (on the one hand) and a child (on the other) about special educational provision (within the meaning of section 312(4) of the Education Act 1996);

(iii) a body responsible for a school (on the one hand) and a disabled child (on the other) about disability discrimination.

(2) The power to make an order under subsection (1) includes power—

(a) to add, remove or modify rights;

(b) to amend or repeal provisions of Part 4 of the Education Act 1996;

(c) to amend or repeal provisions of **[**[F14]Chapter 1 of Part 6 of, and Schedule 17 to, the Equality Act 2010**]**;

(d) to make consequential amendments and repeals to provisions in those Acts.

(3) The power to make an order under this section may not be exercised—

(a) before a report is laid before the National Assembly for Wales under section 17(3), or

Status: *Point in time view as at 05/05/2010. This version of this Measure contains provisions that are not valid for this point in time.*
Changes to legislation: *Education (Wales) Measure 2009 is up to date with all changes known to be in force on or before 10 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(b) after a period of 24 months from the last day of the pilot period specified in regulations under section 17(1).

Textual Amendments

F1 Words in Measure substituted (5.5.2010) by Local Education Authorities and Children's Services Authorities (Integration of Functions) (Wales) Order 2010 (S.I. 2010/1148), arts. 1, **5(2)**

F13 Words in s. 18(1)(b) substituted (6.7.2011) by The Right of a Child to Make a Disability Discrimination Claim (Schools) (Wales) Order 2011 (S.I. 2011/1651), arts. 1(2), **12(a)**

F14 Words in s. 18(2)(c) substituted (6.7.2011) by The Right of a Child to Make a Disability Discrimination Claim (Schools) (Wales) Order 2011 (S.I. 2011/1651), arts. 1(2), **12(b)**

19 Interpretation of sections 17 and 18

(1) In sections 17 and 18—

"child" ("plentyn") includes any person who has not attained the age of 19 and is a registered pupil at a school;

"disabled child" ("plentyn anabl") has the same meaning as in**[**[F15]paragraph 6A of Schedule 17 to the Equality Act 2010**]**;

"local authorities" ("awdurdodau lleol") means **[**[F16]local authorities**]** in Wales;

"maintained school" ("ysgol a gynhelir") means any community, foundation or voluntary school or any community or foundation special school not established in a hospital;

"maintained nursery school" ("ysgol feithrin a gynhelir") means a nursery school which is maintained by a **[**[F1]local authority**]** and which is not a special school;

"parent" ("rhiant") has the meaning given in section 576 of the Education Act 1996;

"proprietor" ("perchennog") in relation to a school means the person or body of persons responsible for the management of the school (so that in relation to a community, foundation or voluntary school or a community or foundation special school, or a maintained nursery school, it means the governing body);

"relevant school" ("ysgol berthnasol") means—

(a) a maintained school or a maintained nursery school,

(b) a pupil referral unit,

(c) an independent school named in the statement maintained for the child under section 324 of the Education Act 1996, or

(d) a school approved under section 342 of the Education Act 1996;

"Welsh Tribunal" ("Tribiwnlys Cymru") means the Special Educational Needs Tribunal for Wales.

(2) The body responsible for a school is to be determined for the purposes of section 17(2)(c) and 18(1)(g)(iii) in accordance with **[**[F17]section 85(9) of the Equality Act 2010**]**.

(3) A local authority is responsible for a child for the purposes of section 17(2)(a) if the child is in its area and—

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Changes to legislation: *Education (Wales) Measure 2009 is up to date with all changes known to be in force on or before 10 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(a) the child is a registered pupil at a maintained school or a maintained nursery school,

(b) education is provided for the child at a school which is not a maintained school or maintained nursery school, but is so provided at the expense of the authority,

(c) the child does not come within (a) or (b), but is a registered pupil at a school and has been brought to its attention as having (or probably having) special educational needs, or

(d) the child is not a registered pupil at a school, but is not under the age of two or over compulsory school age and has been brought to its attention as having (or probably having) special educational needs.

Textual Amendments

F1 Words in Measure substituted (5.5.2010) by Local Education Authorities and Children's Services Authorities (Integration of Functions) (Wales) Order 2010 (S.I. 2010/1148), arts. 1, **5(2)**

F15 Words in s. 19(1) substituted (6.7.2011) by The Right of a Child to Make a Disability Discrimination Claim (Schools) (Wales) Order 2011 (S.I. 2011/1651), arts. 1(2), **13(1)(a)**

F16 Words in s. 19(1) substituted (5.5.2010) by Local Education Authorities and Children's Services Authorities (Integration of Functions) (Wales) Order 2010 (S.I. 2010/1148), arts. 1, **5(4)**

F17 Words in s. 19(2) substituted (6.7.2011) by The Right of a Child to Make a Disability Discrimination Claim (Schools) (Wales) Order 2011 (S.I. 2011/1651), arts. 1(2), **13(1)(b)**

Future repeal and re-enactment of the Disability Discrimination Act 1995

20 Powers on repeal and re-enactment of the Disability Discrimination Act 1995

(1) This section applies if Part 4 of the Disability Discrimination Act 1995 is repealed and re-enacted (with or without modification) by an Act of Parliament.

(2) In subsection (1) "repealed and re-enacted" includes repeal and re-enactment prior to commencement of the repeal and re-enactment.

(3) The Welsh Ministers may by order—

(a) make provision corresponding to provision made by sections 9 to 16 of this Measure, and

(b) make such other provision as they consider appropriate in consequence of any provision made under paragraph (a).

(4) The power conferred by subsection (3) includes power to amend or repeal any enactment (whenever passed or made), including any provision of this Measure.

(5) In this section "enactment" includes an enactment comprised in subordinate legislation, within the meaning of the Interpretation Act 1978 (c. 30).

Status: *Point in time view as at 05/05/2010. This version of this Measure contains provisions that are not valid for this point in time.*
Changes to legislation: *Education (Wales) Measure 2009 is up to date with all changes known to be in force on or before 10 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

PART 2

MISCELLANEOUS AND GENERAL

VALID FROM 01/09/2011

Amendments to Part 7 of the Education Act 2002

21 Foundation phase

(1) The Education Act 2002 (c. 32) is amended in accordance with this section.

(2) In section 97 (interpretation of Part 7)—

(a) in the definition of "assessment arrangements", for "stage", each time it appears, substitute " phase ";

(b) in the definition of "desirable outcomes", for "foundation stage" substitute " foundation phase ";

(c) in the definition of "the foundation stage", for "stage" substitute " phase ".

(3) In section 102 (including the heading), for "foundation stage", each time those words appear, substitute " foundation phase ".

(4) In section 103, omit subsection (1)(a).

(5) In section 104 (including the heading), for "foundation stage", each time those words appear, substitute " foundation phase ".

(6) In section 105 (including in the heading), omit the word "first," each time it appears.

(7) In section 108—

(a) for "foundation stage", each time those words appear, substitute " foundation phase ";

(b) in subsection (3), omit the word "first,".

(8) In section 110 for "foundation stage", each time those words appear, substitute " foundation phase ".

VALID FROM 01/09/2011

Amendments to the Learning and Skills Act 2000

22 Local curriculum entitlements for students aged 16 to 18

(1) The Learning and Skills Act 2000 (c. 21) is amended in accordance with this section.

(2) In section 33F(1)(a), for "ceases to be" substitute " was not at the beginning of the entitlement period, or subsequently ceases to be, ".

(3) For the definition of "academic year" in section 33N(1), substitute the following—

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""academic year" means the period beginning on the fourth Monday of September in any year and ending on the first day of September in the following year;".

General

VALID FROM 10/02/2012

23 Minor and consequential amendments

The Schedule contains minor and consequential amendments.

24 Orders and regulations

(1) Any power of the Welsh Ministers to make an order or regulations under this Measure is exercisable by statutory instrument.

(2) Any power of the Welsh Ministers to make an order or regulations under this Measure includes power—
  (a) to make different provision for different cases or areas;
  (b) to make provision generally or in relation to specific cases;
  (c) to make such incidental, supplementary, transitory, transitional or saving provision as the Welsh Ministers think fit.

(3) Any statutory instrument containing regulations made under section 17(1) is subject to annulment in pursuance of a resolution of the National Assembly for Wales.

(4) A statutory instrument containing an order under section 18 or 20 may not be made unless a draft of the instrument has been laid before, and approved by a resolution of, the National Assembly for Wales.

25 Orders under section 18: procedure

(1) Before the Welsh Ministers make an order under section 18 they must—
  (a) consult such persons as appear to them to be representative of interests affected by their proposals;
  (b) have regard to the findings of their report under section 17(3).

(2) If, following consultation under subsection (1), the Welsh Ministers propose to make an order under section 18 they must lay before the National Assembly for Wales a document including—
  (a) an explanation of the proposals,
  (b) a draft of the proposed order, and
  (c) details of the consultation under subsection (1)(a).

(3) Where a document is laid before the National Assembly for Wales under subsection (2), a draft of an order under section 18 to give effect to the proposals (with or without modification) must not be laid before the Assembly until after the expiry of the period of sixty days beginning with the day on which the document was laid.

Status: *Point in time view as at 05/05/2010. This version of this Measure contains provisions that are not valid for this point in time.*
Changes to legislation: *Education (Wales) Measure 2009 is up to date with all changes known to be in force on or before 10 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(4) In calculating the period mentioned in subsection (3) no account is to be taken of any time during which the National Assembly for Wales is dissolved or is in recess for more than four days.

(5) In preparing a draft order under section 18 the Welsh Ministers must consider any representations made during the period mentioned in subsection (3).

(6) A draft order laid before the National Assembly for Wales in accordance with section 24(4) must be accompanied by a statement of the Welsh Ministers giving details of—

(a) any representations considered in accordance with subsection (5), and

(b) any changes made to the proposals contained in the document laid before the National Assembly for Wales under subsection (2).

26 Commencement

(1) The following provisions come into force at the end of a period of two months beginning on the day on which this Measure is approved by Her Majesty in Council—

section 24,
section 25,
this section,
section 27.

(2) Paragraphs 10 to 12 of the Schedule come into force on the day on which this Measure is approved by Her Majesty in Council.

(3) The remaining provisions of this Measure come into force in accordance with provision made by the Welsh Ministers by order.

27 Short title

This Measure may be cited as the Education (Wales) Measure 2009.

Status: *Point in time view as at 05/05/2010. This version of this Measure contains provisions that are not valid for this point in time.*
Changes to legislation: *Education (Wales) Measure 2009 is up to date with all changes known to be in force on or before 10 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

SCHEDULE

(introduced by section 23)

MINOR AND CONSEQUENTIAL AMENDMENTS

VALID FROM 10/02/2012

Education Act 1996 (c. 56)

1 Amend the Education Act 1996 as follows.

VALID FROM 06/03/2012

2 In section 326(4) (appeal against contents of the statement)—

(a) in paragraph (b), omit the full stop and after "school" insert " , or ";

(b) after paragraph (b) insert—

"(c) in the case of proceedings relating to a statement maintained by a **[**[F1]local authority**]** in Wales only, the child has proposed the school in the proceedings (whether or not the parent, the **[**[F1]local authority**]** or both have also proposed the school).".

Textual Amendments

F1 Words in Measure substituted (5.5.2010) by Local Education Authorities and Children's Services Authorities (Integration of Functions) (Wales) Order 2010 (S.I. 2010/1148), arts. 1, **5(2)**

VALID FROM 06/03/2012

3 In section 326A (unopposed appeals), in subsection (1)(a), for "the parent of a child has appealed to the Tribunal under section 325, 328, 329 or 329A or paragraph 8(3) of Schedule 27 against a decision of a **[**[F1]local authority**]**, and" substitute—

"either—

(i) the parent of a child has appealed to the Tribunal under section 325, 328, 329 or 329A or paragraph 8(3) of Schedule 27 against a decision of a **[**[F1]local authority**]** in England or Wales, or

(ii) the child has appealed to the Tribunal under section 325, 328, 329 or 329A or paragraph 8(3) of Schedule 27 against a decision of a **[**[F1]local authority**]** in Wales, and".

Status: *Point in time view as at 05/05/2010. This version of this Measure contains provisions that are not valid for this point in time.*
Changes to legislation: *Education (Wales) Measure 2009 is up to date with all changes known to be in force on or before 10 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

Textual Amendments

F1 Words in Measure substituted (5.5.2010) by Local Education Authorities and Children's Services Authorities (Integration of Functions) (Wales) Order 2010 (S.I. 2010/1148), arts. 1, **5(2)**

4 In section 333 (constitution of Welsh Tribunal), in subsection (1ZB), for "this section and sections 334 to 336ZB" substitute " this Part ".

VALID FROM 06/03/2012

5 In Schedule 27 (making and maintenance of statements under section 324)—

(a) in paragraph 8(1)(b)(iv), for "the parent has appealed" substitute " there is an appeal ";

(b) in paragraph 11(4), for "the parent of the child appeals" substitute " there is an appeal ";

(c) in paragraph 11(5)(a), for "the parent of the child has appealed" substitute " there has been an appeal ".

VALID FROM 06/07/2011

Disability Discrimination Act 1995 (c. 50)

6 Amend the Disability Discrimination Act 1995 as follows.

7 In section 28G (residual duty: supplementary provisions), in subsection (5), after "28I," insert " 28IA, ".

8 In section 28P (validity and revision of agreements of responsible bodies) in subsection (2)(a), after "28I" insert " , 28IA ".

9 In Schedule 3 (enforcement and procedure), Part 3 (discrimination in schools)—

(a) in paragraph 9 (restriction on proceedings for breach of Part 4, Chapter 1), in sub-paragraph (1), after "28I," insert " 28IA, ";

(b) in paragraph 10 (period within which proceedings may be brought), in sub-paragraph (1), after "28I" insert " or section 28IA ";

(c) in paragraph 10(2)—

(i) after "28I" insert " or section 28IA ";

(ii) before "section 27 of the Equality Act 2006" insert " section 28ID of this Act or ";

(d) in paragraph 10(3), after "28I" insert " or section 28IA ";

(e) in paragraph 11 (evidence) in sub-paragraph (1B), after "28I," insert " 28IA, ".

Education and Inspections Act 2006 (c. 40)

10 Section 162 of the Education and Inspections Act 2006 is amended as follows.

11 For subsection (5A) substitute—

Status: *Point in time view as at 05/05/2010. This version of this Measure contains provisions that are not valid for this point in time.*
Changes to legislation: *Education (Wales) Measure 2009 is up to date with all changes known to be in force on or before 10 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

"(5A) The Welsh Ministers may by order—

(a) make such provision as appears to them to be appropriate for the purpose of—

(i) repealing any reference in a Measure of the National Assembly for Wales to a **[**[F1]local authority**]** (however expressed), and

(ii) replacing it, where it appears to them to be appropriate, with a reference (however expressed) to a Welsh local authority;

(b) make such provision as appears to them to be appropriate in consequence of or in connection with any provision made by virtue of paragraph (a).

(5B) An order under subsection (5A) may make provision modifying any enactment whenever passed or made, and may, in particular, make provision of the kind specified in paragraphs (a) to (e) of subsection (2).".

Textual Amendments

F1 Words in Measure substituted (5.5.2010) by Local Education Authorities and Children's Services Authorities (Integration of Functions) (Wales) Order 2010 (S.I. 2010/1148), arts. 1, **5(2)**

After subsection (6) insert—

12 "(7) In interpreting paragraphs (a) to (e) of subsection (2) for the purposes of subsection (5B), "statutory provision" also includes any provision of a Measure of the National Assembly for Wales, including any Measure passed after the Education (Wales) Measure 2009.".

Status:
Point in time view as at 05/05/2010. This version of this Measure contains provisions that are not valid for this point in time.

Changes to legislation:
Education (Wales) Measure 2009 is up to date with all changes known to be in force on or before 10 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations.