
Changes to legislation: There are currently no known outstanding effects for the Curriculum and Assessment (Wales) Act 2021, Cross Heading: Education Act 1996 (c. 56). (See end of Document for details)

SCHEDULE 2

MINOR AND CONSEQUENTIAL AMENDMENTS AND REPEALS

Education Act 1996 (c. 56)

- 1 The Education Act 1996 is amended as follows.
- 2 In section 4 (schools: general), in subsection (2), after “section 19(1)”, in both places it occurs, insert “or 19A(1)”.
- 3 (1) Section 19 (exceptional provision of education in pupil referral units or elsewhere) is amended as follows.
 - (2) In the heading, at the end insert “ : England ”.
 - (3) In subsection (1), after “Each local authority” insert “ in England ”.
 - (4) In subsection (1A), omit “In relation to England,”.
 - (5) Omit subsections (2) and (2A).
 - (6) In subsection (2B), after “a local authority” insert “ in England ”.
 - (7) In subsection (3), after “A local authority” insert “ in England ”.
 - (8) In subsection (3A), omit “In relation to England,”.
 - (9) In subsection (4), after “A local authority” insert “ in England ”.
- (10) In subsection (7), after “pupil referral units” insert “ maintained by a local authority in England ”.
- 4 After section 19 insert—

“19A Exceptional provision of education in pupil referral units or elsewhere: Wales

- (1) Each local authority in Wales must make arrangements for the provision of suitable education at school or otherwise than at school for children within the authority's area who—
 - (a) are of compulsory school age, and
 - (b) by reason of illness, exclusion from school or otherwise, may not receive suitable education for a period unless such arrangements are made for them.
- (2) A school established (whether before or after the commencement of this Act) and maintained by a local authority in Wales which—
 - (a) is specially organised to provide education for children falling within subsection (1), and
 - (b) is not a special school,is to be known as a “pupil referral unit”.
- (3) A local authority in Wales may secure the provision of boarding accommodation at any pupil referral unit.

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- (4) A local authority in Wales may make arrangements for the provision of suitable education otherwise than at a school for young persons within the authority's area who, by reason of illness, exclusion from school or otherwise, may not receive a suitable education for a period unless such arrangements are made for them.
- (5) In this section, “suitable education”, in relation to a child or young person means efficient education suitable to the young person's age, ability and aptitude and to any additional learning needs the child or young person may have.
- (6) The following persons are to be treated as pupils for the purposes of this Act—
 - (a) any child for whom education is provided otherwise than at school under this section, and
 - (b) any young person for whom full-time education is provided otherwise than at school under this section.
- (7) Schedule 1 has effect in relation to pupil referral units maintained by local authorities in Wales.”

5 In Part 5, in the heading of Chapter 3, after “Education” insert “ etc ”.

6 (1) Section 375 (agreed syllabuses of religious education) is amended as follows.

(2) In the heading, after “religious education” insert “ : England ”.

(3) In subsection (2)—

- (a) in the words before paragraph (a), after “agreed syllabus” insert “ , in relation to England, ”;
- (b) in paragraph (b), after “local authority” insert “ in England ”.

(4) In subsection (3), after “agreed syllabus” insert “ for use in England ”.

(5) In subsection (4), after “local authority” insert “ in England ”.

7 After section 375 insert—

“375A Agreed syllabus of Religion, Values and Ethics: Wales

- (1) Each local authority in Wales must adopt a syllabus of Religion, Values and Ethics for use in the schools maintained by them.
- (2) The syllabus adopted by an authority may make different provision in respect of—
 - (a) different descriptions of school maintained by the local authority;
 - (b) different descriptions of pupils.
- (3) The syllabus—
 - (a) must reflect the fact that the religious traditions in Wales are in the main Christian while taking account of the teaching and practices of the other principal religions represented in Wales;
 - (b) must also reflect the fact that a range of non-religious philosophical convictions are held in Wales.

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- (4) In subsection (3), the reference to philosophical convictions is to philosophical convictions within the meaning of Article 2 of the First Protocol to the European Convention on Human Rights.
- (5) Schedule 31 makes further provision in relation to a syllabus of Religion, Values and Ethics.
- (6) In this section—
- “the European Convention on Human Rights” means the Convention for the Protection of Human Rights and Fundamental Freedoms, agreed by the Council of Europe at Rome on 4th November 1950, as it has effect for the time being in relation to the United Kingdom;
- “the First Protocol”, in relation to that Convention, means the protocol to the Convention agreed at Paris on 20th March 1952.
- (7) References in this Act to an agreed syllabus, in relation to Wales, are to a syllabus adopted under this section, or deemed to be adopted under this section by virtue of paragraph 14(2) of Schedule 31; and accordingly in relation to a syllabus deemed to have been so adopted, any reference to the date on which an agreed syllabus was adopted is a reference to the date of deemed adoption specified by the Welsh Ministers in a direction under that paragraph.
- (8) In exercising functions under this section, a local authority must have regard to any guidance given by the Welsh Ministers.”
- 8 In the italic heading before section 390 (constitution of standing advisory councils on religious education), omit “*on religious education*”.
- 9 (1) Section 390 (constitution of advisory councils) is amended as follows.
- (2) In subsection (1), after “local authority” insert “ in England ”.
- (3) After subsection (1) insert—
- “(1A) A local authority in Wales shall constitute a standing advisory council on Religion, Values and Ethics for the purposes mentioned in section 391(1A).”
- (4) In subsection (2), for “The council” substitute “ A council constituted under subsection (1) or (1A) ”.
- (5) In subsection (3), for “The council” substitute “ A council constituted under subsection (1) or (1A) ”.
- (6) In subsection (4)—
- (a) in paragraph (a), before “a group” insert “ in the case of an area in England, ”;
- (b) after paragraph (a) insert—
- “(aa) in the case of an area in Wales, a group of persons to represent—
- (i) Christian denominations and other religions and denominations of such religions, and
- (ii) non-religious philosophical convictions;”.
- (7) In subsection (6), after “appointed” insert “ by a local authority in England ”.

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- (8) After subsection (6) insert—
- “(6A) A local authority in Wales, in appointing persons to a representative group under subsection (4)(aa), must take all reasonable steps to secure the outcome referred to in subsection (6B).
- (6B) The outcome is that the number of members appointed to the group to represent a religion, denomination or non-religious philosophical conviction shall, so far as is consistent with the efficient discharge of the group's functions, reflect broadly the proportionate strength of that religion, denomination or non-religious philosophical conviction in the area.”
- (9) After subsection (7) insert—
- “(8) In exercising functions under this section, a local authority in Wales must have regard to any guidance given by the Welsh Ministers.
- (9) In this section, “non-religious philosophical conviction” has the same meaning as in section 375A(3).”
- 10 (1) Section 391 (functions of advisory councils) is amended as follows.
- (2) After subsection (1) insert—
- “(1A) The purposes referred to in section 390(1A) are—
- (a) to advise the local authority on such matters connected with—
- (i) religious worship in community schools or in foundation schools which (within the meaning of Part 2 of the School Standards and Framework Act 1998) do not have a religious character, and
- (ii) the provision of teaching and learning, under the Curriculum and Assessment (Wales) Act 2021, either in respect of the mandatory element of Religion, Values and Ethics (within the meaning of that Act), or under section 61 of that Act (post-compulsory education in maintained schools: Religion, Values and Ethics),
- as the authority may refer to the council or as the council may see fit, and
- (b) to carry out the functions conferred on them by section 394.”
- (3) In subsection (2), for “subsection (1)(a)” substitute “ subsections (1)(a) and (1A)(a) ”.
- (4) After subsection (10) insert—
- “(11) In exercising its functions under this Act, a council constituted by a local authority in Wales must have regard to any guidance issued by the Welsh Ministers.”
- 11 (1) Section 392 (advisory councils: supplementary provisions) is amended as follows.
- (2) In subsection (1), for “the standing advisory council on religious education” substitute “ a standing advisory council ”.
- (3) In subsection (2), after each reference to “denomination” insert “ , philosophical conviction ”.
- (4) In subsection (3), after “denomination” insert “ , philosophical conviction ”.

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- (5) In subsection (8), in paragraph (b), after each reference to “denomination” insert “, philosophical conviction”.
- 12 In section 394 (determination of cases in which requirement for Christian collective worship is not to apply), in subsection (1), in paragraph (b)—
- (a) after “section” insert “ 68A or ”;
 - (b) after “by” insert “ the Welsh Ministers or ”.
- 13 In section 396 (power of Secretary of State to direct advisory council to revoke determination or discharge duty), in subsection (1), after “local authority” insert “ in England ”.
- 14 After section 396 insert—

“396A Power of Welsh Ministers to direct advisory council to revoke determination etc

- (1) Where the Welsh Ministers are satisfied, either on complaint by any person or otherwise, that any standing advisory council constituted by a local authority in Wales under section 390—
 - (a) have acted, or are proposing to act, unreasonably in determining for the purposes of section 394 or 395 whether it is appropriate for the requirement imposed by paragraph 3(2) of Schedule 20 to the School Standards and Framework Act 1998 to apply in the case of any school or any class or description of pupils at a school, or
 - (b) have failed to discharge any duty imposed under section 394 or 395, the Welsh Ministers may give the council such directions as to the revocation of the determination, or the withdrawal of the proposed determination or (as the case may be) the discharge of the duty as appear to them to be expedient; and the council shall comply with the directions.
 - (2) Directions under subsection (1) may provide for the making by the council of a new determination to take effect in place of the determination or proposed determination to be revoked or withdrawn by them.”
- 15 (1) Section 397 (religious education: access to meetings and documents) is amended as follows.
- (2) In the heading, omit “Religious education:”
 - (3) In subsection (1)—
 - (a) in paragraph (a), for “(1)” substitute “ (A1) ”;
 - (b) in paragraph (b), omit “on religious education”.
 - (4) In subsection (2), after “Regulations” insert “ made by the appropriate authority ”.
 - (5) After subsection (3) insert—
 - “(4) The “appropriate authority” is—
 - (a) in relation to a conference convened by a local authority in Wales, or a standing advisory council convened by a local authority in Wales, the Welsh Ministers;
 - (b) in relation to a conference convened by a local authority in England, or a standing advisory council convened by a local authority in England, the Secretary of State.”

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- 16 (1) Section 399 (determination of question whether religious education in accordance with trust deed) is amended as follows.
- (2) In the heading, after “religious education” insert “or education in respect of Religion, Values and Ethics”.
- (3) The existing provision becomes subsection (1).
- (4) In subsection (1), after “voluntary school” insert “in England”.
- (5) After subsection (1), insert—
- “(2) Where any trust deed relating to a foundation or voluntary school in Wales makes any provision whereby a bishop or any other ecclesiastical or denominational authority has power to decide whether provision for the mandatory element of Religion, Values and Ethics does or does not accord with the provisions of the trust deed, that question shall be determined in accordance with the provisions of the trust deed.
- (3) In subsection (2), the reference to the mandatory element of Religion, Values and Ethics has the same meaning as in the Curriculum and Assessment (Wales) Act 2021.”
- 17 In the italic heading before section 403, after “*Sex education*” insert “*in England*”.
- 18 (1) Section 403 (sex education: manner of provision) is amended as follows.
- (2) In the heading, after “Sex education” insert “in England”.
- (3) In subsection (1)—
- (a) after “head teacher” insert “of a maintained school in England”;
- (b) for “a maintained” substitute “the”.
- (4) In subsection (1A), in the words before paragraph (a), after “maintained schools” insert “in England”.
- (5) In subsection (1C), after “schools” insert “in England”.
- 19 In section 404 (sex education: statements of policy)—
- (a) in the heading, after “Sex education” insert “in England”;
- (b) in subsection (1), after “maintained school” insert “in England”.
- 20 In section 405 (exemption from sex education)—
- (a) in the heading, after “sex education” insert “in England”;
- (b) in subsection (1), after “maintained school” insert “in England”.
- 21 In section 444ZA (application of section 444 to alternative educational provision), in subsection (1), after “section 19” insert “or 19A”.
- 22 In section 569 (regulations), in subsection (2B)—
- (a) before “444A” insert “397,”;
- (b) before “made by the Welsh Ministers” insert “, or under paragraph 6B or 6C of Schedule 1,”.
- 23 In section 579 (general interpretation), in subsection (1), in the definition of “regulations”—
- (a) omit “(except in Chapter 5A)”;

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- (b) at the end insert “, except where otherwise stated or where the function of making the regulations has been transferred to the Welsh Ministers in relation to Wales”.
- 24 In section 580 (index), for the entry for “agreed syllabus” substitute—
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| “agreed syllabus | |
| (in relation to England) | Section 375(2) and (4) |
| (in relation to Wales) | Section 375A(7)”. |
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- 25 (1) Schedule 1 (pupil referral units) is amended as follows.
- (2) After paragraphs 1 and 2 (general adaptations of enactments) insert—
- “2A Paragraphs 1 and 2 do not apply to references in an enactment in, or made under, the Curriculum and Assessment (Wales) Act 2021.”
- (3) In paragraph 6 (curriculum)—
- (a) in sub-paragraph (1)—
- (i) after “every pupil referral unit” insert “ maintained by a local authority in England ”;
- (ii) omit “or 99(1)”;
- (b) in sub-paragraph (2), after “every pupil referral unit” insert “ maintained by a local authority in England ”;
- (c) omit sub-paragraphs (3) and (4).
- (4) After paragraph 6 insert—
- “6A Paragraphs 6B, 6C and 6D apply in relation to every pupil referral unit maintained by a local authority in Wales.
- 6B (1) The local authority, the management committee (where applicable) and the teacher in charge of a pupil referral unit must exercise their functions—
- (a) in relation to registered pupils of compulsory school age at the unit, in accordance with sections 50 to 52 of the Curriculum and Assessment (Wales) Act 2021 (curriculum requirements);
- (b) in relation to registered pupils above compulsory school age at the unit, with a view to securing that the curriculum for those pupils meets the requirements in sub-paragraph (2).
- (2) The requirements are that the curriculum is a balanced and broadly based curriculum which—
- (a) promotes the spiritual, moral, cultural, mental and physical development of the pupils, and
- (b) prepares them for the opportunities, responsibilities and experiences of later life.
- (3) The Welsh Ministers may, by regulations, make provision in respect of the curriculum for registered pupils above compulsory school age at pupil referral units, including provision as to making, and keeping up to date, a written statement of the policy in relation to the curriculum for those pupils.
- 6C The Welsh Ministers may, by regulations—

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- (a) require the local authority, the management committee (where applicable) or the teacher in charge of a pupil referral unit to exercise any functions relating to the curriculum that are specified in regulations, or
 - (b) require those persons, or any of them, to collaborate with each other in exercising any functions relating to the curriculum that are specified in regulations.
- 6D (1) Each local authority in Wales must make arrangements to deal with complaints that the authority, or the teacher in charge of a pupil referral unit maintained by the authority—
- (a) have acted or are proposing to act unreasonably in relation to the exercise of a power conferred, or the performance of a duty imposed, on them—
 - (i) by section 50, 51 or 52 of the Curriculum and Assessment (Wales) Act 2021, or
 - (ii) by paragraph 6B, or by regulations made under paragraph 6B or 6C, or
 - (b) have failed to discharge a duty imposed on them by or under any of those provisions.
- (2) The Welsh Ministers must not exercise their powers under Chapter 2 of Part 2 of the School Standards and Organisation (Wales) Act 2013 (intervention in local authorities) in relation to—
- (a) a complaint for which arrangements are required to be made under sub-paragraph (1), or
 - (b) a complaint that a local authority in Wales has failed to exercise its powers to secure compliance by the teacher in charge of a pupil referral unit with a duty referred to in subparagraph (1),
- unless a complaint about the same matter has been made, and has been dealt with, in accordance with arrangements made under that sub-paragraph.”
- (5) In paragraph 8—
- (a) the existing provision becomes sub-paragraph (1);
 - (b) in that sub-paragraph—
 - (i) after “pupil referral units” insert “ in England ”;
 - (ii) after “community schools” insert “ in England ”;
 - (c) after that sub-paragraph insert—

“(2) Sections 406 and 407 (political indoctrination, and treatment of political issues) apply in relation to pupil referral units in Wales as they apply in relation to community schools in Wales.”
- 26 (1) Schedule 31 (agreed syllabuses of religious education) is amended as follows.
- (2) In the heading of the Schedule, after “Religious Education” insert “ and Religion, Values and Ethics ”.
- (3) Before the heading of paragraph 1 insert—

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“Duty to convene conference to prepare first syllabus of Religion, Values and Ethics: Wales

A1 A local authority in Wales must convene a conference for the purpose of preparing the first syllabus of Religion, Values and Ethics to be adopted by the local authority under section 375A.”

- (4) In paragraph 4, in sub-paragraph (2)—
- (a) in paragraph (a), before “a committee” insert “ in the case of an area in England, ”;
 - (b) after paragraph (a) insert—
 - “(aa) in the case of an area in Wales, a committee of persons representing—
 - (i) Christian denominations and other religions and denominations of such religions, and
 - (ii) non-religious philosophical convictions;”.
- (5) In paragraph 4, in sub-paragraph (4), after “appointed” insert “ by a local authority in England ”.
- (6) In paragraph 4, after sub-paragraph (4) insert—
- “(5) A local authority in Wales, in appointing persons to a representative group under sub-paragraph (2)(aa), must take all reasonable steps to secure the outcome referred to in sub-paragraph (6).
 - (6) The outcome is that the number of members appointed to the committee to represent a religion, denomination or non-religious philosophical conviction shall, so far as consistent with the efficient discharge of the committee's functions, reflect broadly the proportionate strength of that religion, denomination or non-religious philosophical conviction in the area.
 - (7) In this paragraph, “non-religious philosophical conviction” has the same meaning as in section 375A(3).”
- (7) In paragraph 7—
- (a) in sub-paragraph (1), after each reference to “denomination” insert “ , philosophical conviction ”;
 - (b) in sub-paragraph (2), after “denomination” insert “ , philosophical conviction ”.
- (8) In paragraph 8, in paragraph (b), after “denomination” insert “ , philosophical conviction ”.
- (9) After paragraph 9 insert—

“Adoption of first syllabus of Religion, Values and Ethics: Wales

9A (1) This paragraph applies where a local authority in Wales convene a conference for the purpose of preparing the first syllabus of Religion, Values and Ethics to be adopted by the authority under section 375A.

(2) If—

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- (a) the conference unanimously recommend a syllabus for adoption by the authority under section 375A, and
 - (b) it appears to the authority that the recommended syllabus meets the condition in sub-paragraph (3),
- the authority may give effect to the recommendation by adopting the syllabus.
- (3) The condition is that the syllabus—
- (a) reflects the fact that the religious traditions in Wales are mainly Christian, while taking account of the teaching and practices of the other principal religions represented in Wales, and
 - (b) also reflects the fact that a range of non-religious philosophical convictions (within the meaning of section 375A(3)) are held in Wales.
- (4) If—
- (a) the authority report to the Welsh Ministers that the conference are unable unanimously to recommend a syllabus for adoption under section 375A,
 - (b) the authority report to the Welsh Ministers that the condition in sub-paragraph (3) prevents them from giving effect to the unanimous recommendation of the conference, or
 - (c) it appears to the Welsh Ministers that the authority have failed to exercise their power under sub-paragraph (2) to give effect to the unanimous recommendation of the conference,
- the Welsh Ministers must proceed in accordance with paragraph 12.”
- (10) In paragraph 10—
- (a) in sub-paragraph (1) for “This paragraph applies where a local authority” substitute “ Sub-paragraph (2) applies where a local authority in England ”;
 - (b) after sub-paragraph (2) insert—
 - “(2A) Sub-paragraphs (2B) and (2C) apply where a local authority in Wales cause a conference to be convened for the purpose of reconsidering any agreed syllabus under paragraph 2 or 3.
- (2B) If—
- (a) the conference—
 - (i) unanimously recommend that the existing syllabus should continue to be the agreed syllabus, or
 - (ii) unanimously recommend a new syllabus to be adopted in substitution for the existing syllabus, and
 - (b) it appears to the authority that the condition in sub-paragraph (2C) has been met in relation to the syllabus,
- the authority may give effect to the recommendation.
- (2C) The condition in this sub-paragraph is met in relation to a syllabus if the syllabus—
- (a) reflects the fact that the religious traditions in Wales are in the main Christian while taking account of the teaching and practices of the other principal religions represented in Wales, and

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(b) also reflects the fact that a range of non-religious philosophical convictions (within the meaning of section 375A(3)) are held in Wales.

(2D) Sub-paragraph (3) applies in relation to local authorities in England and local authorities in Wales.”;

(c) in sub-paragraph (3), in paragraph (a), after “Secretary of State” insert “ (in the case of an authority in England) or to the Welsh Ministers (in the case of an authority in Wales) ”;

(d) in sub-paragraph (3), in paragraph (b), after “(2)(b)” insert “ or, as the case may be, (2B)(b), ”;

(e) in sub-paragraph (3), in paragraph (c)—
(i) after “Secretary of State” insert “ or, as the case may be, the Welsh Ministers, ”;

(ii) after “sub-paragraph (2)” insert “ or, as the case may be, sub-paragraph (2B) ”;

(iii) in the words after paragraph (c), after “Secretary of State” insert “ or, as the case may be, the Welsh Ministers, ”.

(11) In paragraph 12, after sub-paragraph (1) insert—

“(1A) Where required by paragraph 9A or 10 to proceed in accordance with this paragraph, the Welsh Ministers shall appoint a body of persons appearing to the Welsh Ministers to possess relevant experience to prepare a syllabus of Religion, Values and Ethics.”

(12) In paragraph 13—

(a) in sub-paragraph (1), in paragraph (b), after “religious education” insert “ or, as the case may be, a syllabus of Religion, Values and Ethics ”;

(b) in sub-paragraph (1), in paragraph (c), for “to the Secretary of State” substitute “—

(i) in the case of a body appointed by the Secretary of State, to the Secretary of State;

(ii) in the case of a body appointed by the Welsh Ministers, to the Welsh Ministers”.

(13) In paragraph 14—

(a) the existing provision becomes sub-paragraph (1);

(b) in that sub-paragraph, for “the appointed body” substitute “ a body appointed under paragraph 12 by the Secretary of State ”;

(c) after that sub-paragraph insert—

“(2) The syllabus prepared by a body appointed by the Welsh Ministers under paragraph 12 shall be deemed to be the syllabus adopted by the authority under section 375A—

(a) as from such date as the Welsh Ministers may direct, and

(b) until a new syllabus is adopted by that authority under that section.”

(14) After paragraph 14 insert—

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“Guidance

14A(1) In exercising functions under this Schedule, each of the persons specified in sub-paragraph (2) must have regard to any guidance given by the Welsh Ministers.

(2) The persons are—

- (a) a local authority in Wales;
- (b) a conference convened by a local authority in Wales under this Schedule;
- (c) a body of persons appointed by the Welsh Ministers under paragraph 12.”

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