



# 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:—**

### PART 1

#### EDUCATION APPEALS AND CLAIMS BY CHILDREN

##### *Special educational needs appeals*

#### **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.
- (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—

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- (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).”.

#### Commencement Information

**II** S. 1 in force at 6.3.2012 by S.I. 2012/320, art. 3(a)

## 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 [<sup>F1</sup>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);
  - (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 [<sup>F1</sup>local authority] must give notice to, or serve the document on, the child as well as on the parent.

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- (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)**

#### Commencement Information

- I2** [S. 2](#) in force at 6.3.2012 by [S.I. 2012/320](#), **art. 3(b)**

### 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.”.

#### Commencement Information

- I3** [S. 3](#) in force at 10.2.2012 by [S.I. 2012/320](#), **art. 2(a)**

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#### 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 “[<sup>F1</sup>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 [<sup>F1</sup>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)**

#### Commencement Information

- I4** [S. 4](#) in force at 6.3.2012 by [S.I. 2012/320](#), **art. 3(c)** (with [art. 4\(a\)](#))

#### 5 Resolution of disputes

- (1) Section 332B of the Education Act 1996 (c. 56) is amended in accordance with subsection (2).
- (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 “[<sup>F1</sup>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).

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(3) After section 332B insert—

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

- (1) A [<sup>F1</sup>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 [<sup>F1</sup>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 [<sup>F1</sup>local authority];

“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

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(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)**

**Commencement Information**

**I5** S. 5 in force at 6.3.2012 by [S.I. 2012/320](#), **art. 3(d)** (with [art. 4\(b\)](#))

**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 [<sup>F1</sup>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 [<sup>F1</sup>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
  - (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 [<sup>F1</sup>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.

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- (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 <sup>[F1]</sup>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)**

#### Commencement Information

**I6** S. 6 in force at 6.3.2012 by [S.I. 2012/320](#), art. 3(e)

## 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.”.

#### Commencement Information

**I7** S. 7 in force at 10.2.2012 by [S.I. 2012/320](#), art. 2(b)

## 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 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 ”.

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**Commencement Information**

**I8** S. 8 in force at 10.2.2012 by S.I. 2012/320, art. 2(c)

*Disability discrimination claims*

**[<sup>F29</sup> 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

**Commencement Information**

**I9** S. 9 in force at 6.3.2012 by S.I. 2012/320, art. 3(f)

**[<sup>F310</sup> [<sup>F3</sup>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—
 

“(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.”.]



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**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

**Commencement Information**

**I10** S. 10 in force at 6.3.2012 by [S.I. 2012/320](#), art. 3(g)

**[<sup>F4</sup>11 [<sup>F4</sup>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

**Commencement Information**

**I11** S. 11 in force at 10.2.2012 by [S.I. 2012/320](#), art. 2(d)

**<sup>F5</sup>12 Case friends**

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**Textual Amendments**

**F5** S. 12 omitted (1.9.2021) by virtue of [Additional Learning Needs and Education Tribunal \(Wales\) Act 2018 \(anaw 2\)](#), s. 100(3), [Sch. 1 para. 19\(6\)](#); [S.I. 2021/373](#), art. 8(j)(xxxiii)

**[<sup>F6</sup>13 [<sup>F6</sup>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.

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- (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

**Commencement Information**

**I12** S. 13 in force at 6.3.2012 by [S.I. 2012/320](#), art. 3(h)

**[<sup>F7</sup>14 [<sup>F7</sup>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.
  - (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.”.]

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#### 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

#### Commencement Information

**I13** S. 14 in force at 6.3.2012 by [S.I. 2012/320](#), art. 3(i)

### [<sup>F8</sup>15 [<sup>F8</sup>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.
    - (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.

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- (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**

**Commencement Information**

**I14** S. 15 in force at 6.3.2012 by [S.I. 2012/320](#), art. 3(j)

**[<sup>F9</sup>16 [<sup>F9</sup>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.

(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**

**Commencement Information**

**I15** S. 16 in force at 6.3.2012 by [S.I. 2012/320](#), art. 3(k)

*Piloting*

**<sup>F10</sup>17 Piloting the rights of a child to appeal or make a claim**

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**Textual Amendments**

**F10** Ss. 17-19 omitted (1.9.2021) by virtue of [Additional Learning Needs and Education Tribunal \(Wales\) Act 2018 \(anaw 2\)](#), s. 100(3), [Sch. 1 para. 18\(2\)](#); S.I. 2021/373, art. 8(j)(xxxi)

**F10 18 Power to make provision about appeals and claims by a child**

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**Textual Amendments**

**F10** Ss. 17-19 omitted (1.9.2021) by virtue of [Additional Learning Needs and Education Tribunal \(Wales\) Act 2018 \(anaw 2\)](#), s. 100(3), [Sch. 1 para. 18\(2\)](#); S.I. 2021/373, art. 8(j)(xxxi)

**F10 19 Interpretation of sections 17 and 18**

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**Textual Amendments**

**F10** Ss. 17-19 omitted (1.9.2021) by virtue of [Additional Learning Needs and Education Tribunal \(Wales\) Act 2018 \(anaw 2\)](#), s. 100(3), [Sch. 1 para. 18\(2\)](#); S.I. 2021/373, art. 8(j)(xxxi)

*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).

**Commencement Information**

**I16** S. 20 in force at 11.6.2011 by [S.I. 2011/1468](#), [art. 2](#)

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## PART 2

### MISCELLANEOUS AND GENERAL

#### *Amendments to Part 7 of the Education Act 2002*

#### **F11 21 Foundation phase**

.....

##### **Textual Amendments**

- F11** S. 21 omitted (30.4.2021) by virtue of [Curriculum and Assessment \(Wales\) Act 2021](#) (asc 4), s. 84(1), [Sch. 2 para. 61](#) (with savings and transitional provisions in [S.I. 2022/111](#), regs. 1, 3)

#### *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—
 

““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;”.

##### **Commencement Information**

- I17** [S. 22](#) in force at 1.9.2011 by [S.I. 2011/1951](#), [art. 2](#)

#### *General*

#### **23 Minor and consequential amendments**

The Schedule contains minor and consequential amendments.

##### **Commencement Information**

- I18** [S. 23](#) in force for specified purposes at 10.2.2012 by [S.I. 2012/320](#), [art. 2\(i\)](#)  
**I19** [S. 23](#) in force for specified purposes at 6.3.2012 by [S.I. 2012/320](#), [art. 3\(I\)](#)

#### **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.

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- (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.

<sup>F12</sup>(3) .....

- (4) A statutory instrument containing an order under section <sup>F13</sup>... 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.

**Textual Amendments**

- F12** S. 24(3) omitted (1.9.2021) by virtue of Additional Learning Needs and Education Tribunal (Wales) Act 2018 (anaw 2), s. 100(3), **Sch. 1 para. 18(3)(a)**; S.I. 2021/373, art. 8(j)(xxxi)
- F13** Words in s. 24(4) omitted (1.9.2021) by virtue of Additional Learning Needs and Education Tribunal (Wales) Act 2018 (anaw 2), s. 100(3), **Sch. 1 para. 18(3)(b)**; S.I. 2021/373, art. 8(j)(xxxi)

<sup>F14</sup>**25 Orders under section 18: procedure**

.....

**Textual Amendments**

- F14** S. 25 omitted (1.9.2021) by virtue of Additional Learning Needs and Education Tribunal (Wales) Act 2018 (anaw 2), s. 100(3), **Sch. 1 para. 18(4)**; S.I. 2021/373, art. 8(j)(xxxi)

**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 [<sup>F15</sup>(including, in the case of provisions amended by the Right of a Child to Make a Disability Discrimination Claim (Schools) (Wales) Order 2011, those provisions as amended)] come into force in accordance with provision made by the Welsh Ministers by order.

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#### Textual Amendments

- F15** Words in s. 26(3) inserted (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(2)**

#### 27 Short title

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



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## SCHEDULE

(introduced by section 23)

### MINOR AND CONSEQUENTIAL AMENDMENTS

#### *Education Act 1996 (c. 56)*

1 Amend the Education Act 1996 as follows.

#### Commencement Information

**I20** Sch. para. 1 in force at 10.2.2012 by S.I. 2012/320, art. 2(j)

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 [F1local authority] in Wales only, the child has proposed the school in the proceedings (whether or not the parent, the [F1local 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)

#### Commencement Information

**I21** Sch. para. 2 in force at 6.3.2012 by S.I. 2012/320, art. 3(m)

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 [F1local 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 [F1local 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 [F1local authority] in Wales, and”.

#### 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)

#### Commencement Information

**I22** Sch. para. 3 in force at 6.3.2012 by S.I. 2012/320, art. 3(m)

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

**Commencement Information**  
I23 Sch. para. 4 in force at 10.2.2012 by S.I. 2012/320, art. 2(j)

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 ”.

**Commencement Information**  
I24 Sch. para. 5 in force at 6.3.2012 by S.I. 2012/320, art. 3(m)

*Disability Discrimination Act 1995 (c. 50)*

F166 .....

**Textual Amendments**  
F16 Sch. paras. 6-9 omitted (6.7.2011) by virtue of The Right of a Child to Make a Disability Discrimination Claim (Schools) (Wales) Order 2011 (S.I. 2011/1651), arts. 1(2), 13(3)

F167 .....

**Textual Amendments**  
F16 Sch. paras. 6-9 omitted (6.7.2011) by virtue of The Right of a Child to Make a Disability Discrimination Claim (Schools) (Wales) Order 2011 (S.I. 2011/1651), arts. 1(2), 13(3)

F168 .....

**Textual Amendments**  
F16 Sch. paras. 6-9 omitted (6.7.2011) by virtue of The Right of a Child to Make a Disability Discrimination Claim (Schools) (Wales) Order 2011 (S.I. 2011/1651), arts. 1(2), 13(3)

F169 .....

**Textual Amendments**  
F16 Sch. paras. 6-9 omitted (6.7.2011) by virtue of The Right of a Child to Make a Disability Discrimination Claim (Schools) (Wales) Order 2011 (S.I. 2011/1651), arts. 1(2), 13(3)

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*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—

“(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 <sup>[F1]</sup>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.”.

**Changes to legislation:**

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**Changes and effects yet to be applied to :**

- s. 1-7 omitted by [2018 anaw 2 Sch. 1 para. 6\(m\)\(i\)](#)
- s. 10 words added by [S.I. 2010/1148 art. 5\(3\)](#) (This amendment not applied to [legislation.gov.uk](#). Amendment by S.I. 2010/1148, art. 5(3) cannot be applied due to the substitution of s. 10 on 6.7.2011 by S.I. 2011/1651, art. 4)
- Sch. para. 2-5 omitted by [2018 anaw 2 Sch. 1 para. 6\(m\)\(ii\)](#)
- Sch. para. 1 and preceding heading omitted by [2018 anaw 2 Sch. 1 para. 6\(m\)\(ii\)](#)