
Cymdeithas yr Iaith's
Welsh Language
Education Act



Foreword

The proposed Welsh Language Education Act offers the Government a once-in-a-generation opportunity to ensure that every child in Wales receives a Welsh-medium education.

The fact that eighty percent of our children are still deprived of a Welsh-medium education is a national disgrace, with the inequality at its worst among disadvantaged communities, migrants and people of colour. Young people who don't become fluent in Welsh will likely be excluded from cultural, social and economic opportunities for the rest of their lives. And in areas where the language is spoken by the majority of the population, many young people lose their language skills as they go through the education system due to the failures of the 'bilingual' system and the approach to assessment.

Cymdeithas yr Iaith's Welsh Language Education Act shows that the Government can set out in statute a clear goal that the Welsh language will be the medium of education in Wales by 2050, placing every school on a path towards Welsh Language Education for All by that date. It is also within the Minister's power to ensure that all new schools will be Welsh-medium. Our Act would also establish one continuum of learning and one qualification for all: eliminating the damaging practice of offering the majority of young people 'Second Language Welsh' while a minority are given a holistic linguistic experience.

We are very grateful to Keith Bush, Fellow in Welsh Law at the Wales Governance Centre, for his key contribution to the specialist work of drafting the proposed legislation set out in the pages that follow. His work has enabled Cymdeithas yr Iaith to translate its policies and vision into the language of the law, showing the Government the way forward in a very practical way. We also thank those who have contributed valuable comments since we published our draft Act at the National Eisteddfod in August, enabling us to make important changes before publishing this final version.

When the Government passes its own Welsh Language Education Act, there are two possible outcomes: either the Minister will choose to throw open the doors to all the children of Wales, or he will choose to deepen the linguistic inequality by continuing to exclude children for generations to come. The Welsh language belongs to everyone. The proposals in this Act would finally make that principle a reality.

Education Group
Cymdeithas yr Iaith
May 2023

Welsh Language Education (Wales) Bill 2023

Explanatory Notes

Introduction

The purpose of these notes is to facilitate understanding of this Welsh Language Education Bill published by Cymdeithas yr Iaith in May 2023. This version includes a number of revisions made to the original version, published by the Gymdeithas in August 2022, as a result of responses received to its consultation on that version.

Policy

The Bill aims to give effect to the policy of Cymdeithas yr Iaith of transforming the education system in Wales into one which is thoroughly Welsh in language, over a feasible period – namely by 2050, in order to align with the Welsh Government's target of achieving one million Welsh speakers by that year. A central element to this would be the unification of the public education system in Wales, turning every school and college, over a period of time, into one that provides education through the medium of Welsh and in a Welsh language ethos. The Gymdeithas believes that this is the only way to ensure that all pupils and students in Wales will be able to speak, read and write Welsh and English effectively and therefore be able to participate fully in the life of the nation.

The Gymdeithas believes, also, that it is essential that the Bill imposes on public authorities, including the Welsh Government, clear legal duties. They should incorporate measurable targets, compliance with which can, if necessary, be tested before the courts.

Notes on the sections

Section 1

This is an overview of the contents of the Bill.

Section 2

A statutory aim is set, namely to ensure that Welsh will become the language of education in Wales no later than 1 September 2050. In this context, “education” includes education in public and private schools and colleges, early years education and formal education or training which is part of an apprenticeship scheme. It is made clear that the aim applies to education for those with special needs as well as those without such needs. Other provisions of the Bill explain how the means of attaining the aim will respond to the practical requirements of each sector.

It is made clear that “education” includes not only the medium of learning but also the provision of ancillary services such as administration and catering. The language used in the delivery of those services affects the “ethos” of an organisation and therefore its ability to teach effectively in Welsh.

It is recognised that the teaching of languages other than Welsh (including English) will continue to take place through those languages. Special provision is made for universities, allowing them to teach courses in English if they make provision for equivalent courses in Welsh.

A statutory duty is placed on all public authorities in the field of education in Wales to work towards achieving the statutory aim, both generally and by fulfilling any specific requirements imposed on them by a statutory framework published by the Welsh Ministers in accordance with section 3. As part of the overall duty to work towards achieving the statutory aim, public authorities are required to use their discretion in relation to their financial powers (for example in awarding grants) in a manner which accords with that duty.

Section 3

Welsh Ministers are placed under a duty to prepare a Welsh Language Education Framework ("the statutory framework") which will determine the steps that public authorities (including the Welsh Government) will have to take in order to achieve the statutory aim. The statutory framework must set out when that action is expected to be taken. Later sections relate to the content of the statutory framework and the regime that will govern the processes of preparing, publishing and reviewing the framework.

Section 4

The principles on which the framework is based are listed. One is to change the method of provision of education from one that distinguishes between schools and colleges on the basis of the language of education to one that sets schools and colleges on a path that leads to one unified Welsh language system. The framework must also prohibit the opening of new schools or colleges that do not provide Welsh language education as well as the making of any change in the character or management of schools or colleges which would be contrary to the statutory aim.

Section 5

It is made clear that the framework will have to set out concrete practical steps, with clear and measurable targets, and firm dates for completion of taking those steps. The framework must specify provisions relating to different sectors of education and can make different provision for different authorities, districts and sectors.

Section 6

The framework must also include specific provision in relation to early years education (and provision that precedes such education, such as play groups) with a view to ensuring provision through the medium of Welsh for all children.

Section 7

The framework must also include detailed provisions to ensure effective workforce planning. The number of staff required to achieve the statutory goal, the skills they will require, and how those staff will be recruited and trained will need to be assessed. That assessment will have to be based on adequate surveys, from time to time, of those needs.

Section 8

The framework must provide for the current examination regime, which offers different "Welsh" and "Welsh Second Language" qualifications to be discontinued, and to ensure the same Welsh language qualifications for everyone.

Section 9

The statutory framework must provide for a comprehensive network of immersion centres for those entering the Welsh language education system from outside, in order to enable them to become part of that system as soon as possible.

Section 10

It is accepted that there are some forms of education provision, for example private schools, where the ability to change the language of education will, at least in the short term, be more limited. The framework will nevertheless have to include provision for facilitating and promoting the use of Welsh in those situations.

Section 11

This section sets out the process for the preparation and publication of the statutory framework.

A draft of it will have to be prepared within 12 months of the Bill becoming an Act. After consultation on the draft, and the amendment of the draft in response to the comments made on it, it will have to be laid before the Senedd and considered by a Senedd committee. The Welsh Government, with the approval of the Senedd, must publish the final draft of the framework. The framework will need to be reviewed by the Welsh Government at least once every five years and, if amendments to the framework are required, a revised version of the framework published, following a process similar to the original one.

Section 12

The Welsh Government is required, on an annual basis, to prepare and publish a report on the progress made during the previous academic year towards achieving the statutory aim.

Section 13

The functions of Estyn are changed to include assessing the extent to which schools and education authorities succeeded in contributing to the statutory aim, in accordance with the statutory framework.

Section 14

The current regime of Welsh in Education Strategic Plans is repealed but Ministers are given the power to delay doing so until the provisions of the statutory framework (which will take their place) are in place.

Section 15

The right of pupils and students to travel to a school or college is strengthened, extending travel arrangements under the Learner Travel (Wales) Measure 2008 to include all those requiring transportation in order to be able to receive education through the medium of Welsh. The Welsh Ministers will also have to exercise their powers under that Measure to extend travel arrangements so as to make early years education in Welsh accessible to all children of the relevant age.

Section 16

Powers already held by the Welsh Ministers to intervene where a local authority fails to perform certain functions in relation to education are extended so as to be available if an authority are unable to perform their duties under the Act.

Section 17

Some of the terms used in the Bill are defined.

Section 18

The Welsh Ministers are given the power to make regulations which will include supplementary, incidental, consequential, transitional, transitory or saving provision to other legislation if this is needed as a result of the Act.

Section 19

The provisions of the Act generally are to come into force the day after it receives Royal Assent. The exceptions are section 14 and that part of section 15 relating to extended arrangements for travel to a school or college, which come into force in accordance with regulations made by the Welsh Ministers.

Section 20

The short name of the Act is declared to be "The Welsh Language Education (Wales) Act."

May 2023

Welsh Language Education (Wales) Act 202-

An Act of Senedd Cymru to establish a statutory aim of ensuring that the Welsh language is, by 1 September 2050, to be the language of education in Wales, placing legal duties on public authorities in Wales to ensure the achievement of that aim, and for related purposes.

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1 Overview

This Act -

- (a) establishes a statutory aim for the education system in Wales, namely to ensure that, by 1 September 2050 at the latest, the Welsh language will be the language of education in Wales (section 2),
- (b) imposes on public authorities (including the Welsh Ministers) a general statutory duty to secure the achievement of the statutory aim by exercising their powers in relation to education in a way
 - (i) that is consistent with that aim (section 2(4)(a)(i)) and
 - (ii) that is in accordance with the requirements of a statutory framework ("the Welsh Education Framework") (section 2(4)(a)(ii)),
- (c) imposes on public authorities (including the Welsh Ministers) a legal duty to promote the statutory aim by explaining to parents, pupils and students the benefits of Welsh-language education (section 2(4)(b)),
- (ch) imposes on the Welsh Ministers a legal duty to publish the statutory framework (section 3),
- (d) prescribes the principles on which the statutory framework is to be based (section 4) and the matters it must include (sections 5 to 10),
- (dd) prescribes the procedure for preparing, publishing and reviewing the statutory framework (section 11),
- (e) provides for annual reports that will measure the progress made towards achieving the statutory aim, which will have to be laid before Senedd Cymru (section 12),
- (f) adds to the functions of the Chief Inspector of Education and Training ("Estyn") the function of reporting on the contribution of schools (and other relevant public authorities) to the achievement of the statutory aim (section 13),
- (ff) abolishes the current system of Welsh in Education Strategic Plans (a system that will be replaced by the regime under this Act) (section 14),
- (g) strengthens the rights of school pupils and students of colleges of further education in relation to arrangements for travel to a school or college providing education (or education in particular subjects) through the medium of the Welsh language (section 15(1)),
- (ng) imposes a statutory duty on Welsh Ministers to use their legislative powers to secure travel arrangements for children attending Welsh-medium early years education so as to promote the achievement of the statutory aim,
- (h) applies the powers of Welsh Ministers to intervene in a local authority on the basis of failures by that authority in relation to education functions so that those powers are available (in accordance with the conditions prescribed by the Schools Standards and Organisation (Wales) Act 2013 in the case of failure by the authority to comply with its duties under this Act.

- (i) makes provision about interpretation, supplementary provision and the bringing into force of the Act and its name (sections 16, 17, 18 and 19).

2 The statutory aim for the Welsh language in education

(1) In this Act,

(a) “the statutory aim” (*“y nod statudol”*) means ensuring that the Welsh language is to be the language of education in Wales,

(i) by 1 September 2050 at the latest,

(ii) before that if practicably possible.

(b) “education” (*“addysg”*) (other than where the context suggests otherwise) includes,

(i) education in public schools and colleges,

(ii) education in private schools and colleges,

(iii) early years education,

(iv) formal education or training which is part of an apprenticeship scheme;

(v) education for those who have special or additional educational needs as well as for those who do not have such needs.

(2) The meaning of “the language of education” (*“iaith addysg”*) in the statutory aim includes (subject to subsection (3)) not only the medium of instruction but also, to the extent that they are relevant to the effectiveness of teaching through the medium of the Welsh language,

(a) the administration of institutions that deliver education, and

(b) the provision of services for those institutions.

(3) The statutory aim does not apply to the language used,

(a) to teach the language and literature of any language other than the Welsh language,

(b) in relation to any course at a university taught through the medium of the English language if equivalent provision is also made to teach the content of that course through the medium of the Welsh language.

(4) Every public authority which exercises functions in Wales in relation to education must ensure that the aim is achieved by

(a) exercising those functions

(i) generally, in a way that is consistent with the statutory aim, and

(ii) in accordance with any specific requirements of the statutory framework published by the Welsh Ministers under section 3, and

(b) taking practical steps to promote the statutory aim by (among other things) explaining to parents, pupils and students the benefits of education through the medium of the Welsh language.

- (5) The reference in subsection (4) to functions in relation to education includes, among other things, financial powers, such as the power to give grants or other financial support to authorities and other institutions which provide education.
- (6) When exercising any discretion in relation to the financial powers referred to in subsection (5) in relation to education, every public authority, including the Welsh Ministers, must do so in a manner that reflects the extent to which the recipient of the grant or other financial support has acted and is likely to act in accordance with its duty to ensure achievement of the statutory aim and the requirements of the statutory framework.

3 Welsh Language Education Framework

The Welsh Ministers must prepare and publish a Welsh Language Education Framework ("the statutory framework") (*"y fframwaith statudol"*) which is to specify—

- (a) the actions that public authorities (including the Welsh Ministers) must take, in exercising their statutory powers in relation to education, to achieve the statutory aim, and
- (b) by when they are expected to begin and to complete those actions.

4 Principles of the statutory framework

The statutory framework must incorporate the following principles, namely

- (a) ensuring the achievement of the statutory aim,
- (b) changing the public education system from one that distinguishes between schools on the basis of the language of education to one where schools and colleges, so long as the statutory goal has not yet been achieved in relation to them, will be located on a pathway leading continuously to the achievement of the statutory aim,
- (c) that functions in relation to education may not be used to
- (i) establish any new school or college unless that school or college (subject to section 2(3)(a)) provides education only through the medium of the Welsh language
- (ii) change the character or management arrangements of any existing school or college if doing so involves distancing from the achievement of the statutory aim.

5 Content of the statutory framework

- (1) As well as those provisions referred to in sections 6, 7, 8, 9 and 10, the statutory framework must specify, among other things
- (a) clear and measurable targets for the achievement of the statutory aim,
- (b) practical steps that public authorities (including the Welsh Ministers) are expected to take, in exercise of their statutory powers, to secure the achievement of those targets, and
- (c) dates by which those targets and actions must be achieved.

- (2) The reference to the "statutory powers" of authorities in subsection (1)(b) includes, among other things, the financial powers referred to in section 2(6).
- (3) The framework must include specific provisions for the following education sectors –
 - (a) early years education,
 - (b) primary education,
 - (c) secondary education,
 - (ch) additional learning needs education,
 - (d) further education,
 - (dd) higher education.
- (4) The framework may make different provision in relation to
 - (a) different kind of authority;
 - (b) different kinds of education;
 - (c) different areas;
 - (ch) any other relevant factor.

6 Early years education

- (1) The framework must specify steps, including any necessary legislative ones, which are to be taken by the Welsh Ministers to ensure that every child who has not reached the age of primary education can receive pre-school education through the medium of Welsh.
- (2) Those steps must include any which are necessary to encourage and support provision which is preliminary to such education, for example Welsh-medium play groups for babies and toddlers.

7 Workforce planning

- (1) The statutory framework must include
 - (a) an assessment of
 - (i) the number of staff, including teachers, trainers, lecturers, education support workers, providers of early years education and others,
 - (ii) the necessary skills among those staff, including ability in the Welsh language that will be needed to ensure the achievement of the statutory aim, in accordance with the requirements of the statutory framework,
 - (b) a statement of the steps that public authorities (including the Welsh Ministers) must take to ensure that the number of staff available for employment by schools and colleges, and the skills of those staff, will be sufficient to meet the requirements of the statutory framework.
- (2) The steps referred to in subsection (1)(b) must include (among other things) arrangements for

- (a) ensuring that the training of teachers, trainers, lecturers, education support workers and providers of early years education will enable them to teach through the medium of the Welsh language, and
 - (b) enabling those who are already in posts concerned with the provision of education, or who are qualified for such posts, to develop and enhance their ability to work through the medium of the Welsh language.
- (3) The Welsh Ministers must
- (a) before formulating those provision in the statutory framework which relate to this section, undertake a sufficient survey of the abilities in the Welsh language of those already in posts concerned with the provision of education,
 - (b) for the purpose of considering the appropriateness of any modifications to the statutory framework in accordance with section 11(3), review, from time to time, the findings of that survey, carrying out further similar surveys if necessary.

8 Inclusive qualifications

- (1) The statutory framework must include steps to achieve the aim of abolishing any educational qualifications in the Welsh language that distinguish between "first language" and "second language" candidates (for example GCSE "Welsh" and "Welsh Second Language" examinations) and to replace those qualifications with ones applicable to all candidate irrespectively.
- (2) Those steps must ensure that the aim in question is achieved by 1 August 2030 at the latest.

9 Immersion arrangements

The statutory framework must include steps to establish and maintain a network of language immersion centres for prospective pupils and students, including those with special or additional educational means, whose ability in the Welsh language, would not otherwise be sufficient to participate effectively in education through the medium of that language, which will enable them to do so, and which will be accessible to pupils and students in all part of Wales.

10 Education outside the public system

- (1) In this section, education which is outside the public education system means
 - (a) education in private schools or colleges, and
 - (b) formal education or training
 - (i) which forms part of an apprenticeship scheme, and
 - (ii) is not provided at a public further or higher education institution.
- (2) The statutory framework must include steps to promote and facilitate the use of the Welsh language as a medium of instruction in education outside the public education system.
- (3) Neither section 2(1)(b) nor sections 4 to 9, apply to the statutory framework in relation to education which is outside the public education system.

11 Preparation and publication of the statutory framework

- (1) The Welsh Ministers must
 - (a) prepare and publish a draft of the statutory framework no later than 12 months after this Act receives the Royal Assent,
 - (b) consult on that draft with
 - (i) public authorities (including the governing bodies of schools and colleges) that exercise functions in Wales in relation to education,
 - (ii) the Welsh Language Commissioner;
 - (iii) the Future Generations Commissioner;
 - (iv) the Children's Commissioner for Wales
 - (v) the Chief Inspector of Education and Training,
 - (vi) bodies representing staff
 - (vii) such others as they consider appropriate,
 - (c) as soon as possible after the end of the consultation, lay the draft (with such modifications as appear to them to be appropriate in the light of the consultation) before Senedd Cymru.
 - (ch) consider any recommendations made on the draft by Senedd Cymru or any of its committees.
 - (d) lay, if they wish, a further draft of the statutory framework, with any modifications that appear to be appropriate in the light of those recommendations.
 - (dd) publish the statutory framework, in accordance with a draft approved by Senedd Cymru.
- (2) The Welsh Ministers must, at least once every five years,
 - (a) review the statutory framework, and
 - (b) publish the findings of that review including, among other things,
 - (i) their assessment of the progress made, in accordance with the statutory framework, towards achievement of the statutory aim,
 - (ii) a statement of the evidence on which that assessment is based, and
 - (iii) how they propose to adapt the framework (if at all) in order to achieve the statutory aim.
- (3) If it appears to the Welsh Ministers, at any time, that it is appropriate to modify the statutory framework, they must prepare and publish a draft of the proposed modifications and publish it. Subsection (1) and (2) apply to that draft.
- (4) References in this Act to the statutory framework include the framework as it stands from time to time including any modifications made in accordance with subsection (3).

12 Annual reports

The Welsh Ministers must, as soon as possible after the end of each academic year,

- (a) prepare a report on the progress made during that academic year towards achieving the statutory aim,
- (b) publish that report,
- (c) lay it before Senedd Cymru.

13 Functions of the Chief Inspector of Education and Training

Insert in section 20(1) of the Education Act 2005 -

“(h) the extent to which those schools, the management of those schools and the exercise by public authorities of their functions in relation to those schools are contributing to the statutory aim set by the Welsh Language Education (Wales) Act 202- and in accordance with such steps as they are required to take under the Welsh Language Education Framework published under that Act.”

14 Abolition of Welsh in Education Strategic Plans

- (1) Part 4 of the School Standards and Organisation (Wales) Act 2013 (Welsh in Education Strategic Plans) is repealed.
- (2) Any order bringing this section into force (under section 18(1)) must include, in accordance with section 18(2), transitional provision to ensure that the provisions of any Strategic Plan in force will continue in force until equivalent provision included in the statutory framework has been published.

15 Learner travel arrangements

- (1) In section 3 of the Learner Travel (Wales) Measure 2008, insert:

"(6A) For the purposes of paragraph (b) of the second column of the table in this section, the school, unit or institution is not suitable for the child, pupil or student

- (a) if the school, unit or institution does not provide education through the medium of the Welsh language, either generally or for a particular subject, and
 - (b) if the parent or other person having care of the child, pupil or student (or the pupil or student, if the pupil or student has reached the age of 18), wishes the child, pupil or student to take advantage of travel arrangements in order to be able to receive education at a school, unit or institution providing education, either generally or for a particular subject, through the medium of the Welsh language.”
- (2) The Welsh Ministers must, within a year of the day on which this Act received the Royal Assent, make regulations under section 8 of the Learner Travel (Wales) Measure 2008 making it compulsory for a local authority to make travel arrangements which will ensure that Welsh-medium early years education is accessible to all children of the relevant age.

16 Enforcement

The references to “education functions” in Part 2 Chapter 2 of the Schools Standards and Organisation (Wales) Act 2013 (“Intervention in local authorities”) are to be interpreted as including any duty placed on a local authority under section 2(4) above.

17 Interpretation

In this Act –

- (a) "public authorities" (“*awdurdodau cyhoeddus*”) includes any person or body which exercises statutory functions and includes, among other authorities, county and county borough councils and the governing bodies of schools and colleges,
- (b) "primary education" (“*addysg gynradd*”), "secondary education" (“*addysg uwchradd*”), and "further education" (“*addysg bellach*”) are to be interpreted in accordance with the Education Act 1996
- (c) "early years education" (“*addysg blynyddoedd cynnar*”) has the same meaning as “nursery education” in the Education Act 1998,
- (ch) "additional learning needs education" (“*addysg anghenion dysgu arbennig*”) is to be interpreted in accordance with the Additional Learning Needs and Education Tribunal (Wales) Act 2018,
- (d) "higher education" (“*addysg uwch*”) is to be interpreted in accordance with the Education Reform Act 1988.

18 Supplementary provision

- (1) If the Welsh Ministers consider it necessary or expedient for the purposes of, or for giving full effect to, any provision of this Act, or in consequence of, any provision of the Act, they may by regulations make—
 - (a) any supplementary, incidental or consequential provision;
 - (b) any transitional, transitory or saving provision.
- (2) Regulations under this section may (among other things) amend, repeal or revoke any enactment.
- (3) In this section, "enactment" (“*deddfiad*”) means an enactment, whenever enacted or made, which is included in or made under one of the following—
 - (a) an Act of Parliament ,
 - (b) a Measure or Act of the National Assembly for Wales,
 - (c) an Act of Senedd Cymru.
- (4) The regulation-making power under this section —
 - (a) is exercisable by statutory instrument;
 - (b) includes a power to make different provision for different purposes;
- (5) A statutory instrument made under this section and which amends or repeals any provision of an Act of Parliament, a Measure of Act of the National Assembly for

Wales or an Act of Senedd Cymru may not be made unless a draft of the instrument has been laid before Senedd Cymru and approved by Senedd Cymru by resolution.


- (6) Any other statutory instrument made under this section may be revoked in accordance with a resolution of Senedd Cymru.

19 Coming into force

- (1) Sections 14 and 15(1) come into force on the day or days specified by the Welsh Ministers by order made by statutory instrument.
- (2) An order under subsection (1) may—
- (a) make transitory, transitional or saving provision;
 - (b) specify different days for different purposes.
- (3) The other provisions of the Act come into force on the day after the Act receives Royal Assent.

20 Short title

The short title of this Act is the Welsh Language Education (Wales) Act 202-.

cymdeithas  o bobol sy'n gweithredu'n ddi-drais
dros y gymraeg a chymunedau cymru
fel rhan o'r chwyldro rhyngwladol dros hawliau a rhyddid