

ADDITIONAL LEARNING NEEDS AND EDUCATION TRIBUNAL (WALES) ACT 2018

EXPLANATORY NOTES

COMMENTARY ON SECTIONS OF THE ACT

Part 4 – Miscellaneous and General

Section 95 - Meaning of “in the area” of a local authority

194. **Section 95** amends the 1996 Act’s partial definition of “in the area” of a local authority. That partial definition provides that references to a person who is “in the area” of a local authority in England in the 1996 Act, do not include a person who would be wholly or mainly resident in the area of a local authority in Wales (for example, a person living permanently in Wales). The amendments made by this section qualify this to ensure that references to a person “in the area” of a local authority in England do not include a person who would be wholly or mainly resident in the area of a local authority in Wales were it not for provision secured under Part 2. This means, for example, that a young person living in the area of a local authority in Wales who is then placed by that authority at a residential educational institution in England for a two year course in order to secure ALP, is still in the area of the local authority in Wales and therefore that authority continues to be responsible for the person under Part 2 (and so must maintain the person’s IDP, review it, secure the ALP, etc.).
195. Similarly, the partial definition in the 1996 Act for references to a person who is in the area of a local authority in Wales, is amended so that such references do not include a person who would be wholly or mainly resident in a local authority area in England, were it not for provision secured under Part 3 of the Children and Families Act 2014.
196. This section also inserts a regulation power into the 1996 Act allowing the Welsh Ministers to make further provision about the meaning of references to a person being in the area of a local authority in Wales.
197. The 1996 Act definition as amended by this section applies for the purposes of the 1996 Act, this Act (see section 99(6)) and provisions of other Education Acts to which the 1996 Act definition applies.