



Additional Learning Needs and Education Tribunal (Wales) Act 2018

2018 anaw 2

PART 2

ADDITIONAL LEARNING NEEDS

CHAPTER 4

AVOIDING AND RESOLVING DISAGREEMENTS

Appeals and applications to the Tribunal

70 Appeal and application rights

- (1) Subsection (2) applies to—
- (a) decisions of the governing body of an institution in the further education sector in Wales or a local authority;
 - (b) individual development plans prepared or maintained by the governing body of an institution in the further education sector in Wales or a local authority;
 - (c) individual development plans revised by a local authority under section 27(6).
- (2) A child or young person and, in the case of a child, the child's parent, may appeal to the Education Tribunal for Wales against the following matters—
- (a) a decision by the governing body of an institution in the further education sector in Wales under section 11 or a local authority under section 13, 18 or 26 as to whether a person has additional learning needs;
 - (b) in the case of a young person, a decision by a local authority under section 14(1)(c)(ii) as to whether it is necessary to prepare and maintain an individual development plan;
 - (c) the description of a person's additional learning needs in an individual development plan;

Changes to legislation: *Additional Learning Needs and Education Tribunal (Wales) Act 2018, Section 70 is up to date with all changes known to be in force on or before 25 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

- (d) the additional learning provision in an individual development plan or the fact that additional learning provision is not in a plan (including whether the plan specifies that additional learning provision should be provided in Welsh);
 - (e) the provision included in an individual development plan under section 14(6) or 19(4) or the fact that provision under those sections is not in the plan;
 - (f) the school named in an individual development plan for the purpose of section 48;
 - (g) if no school is named in an individual development plan for the purpose of section 48, that fact;
 - (h) a decision under section 27 not to revise an individual development plan;
 - (i) a decision under section 28 not to take over responsibility for an individual development plan following a request to consider doing so;
 - (j) a decision to cease to maintain an individual development plan under section 31(5) or 31(6);
 - (k) a decision under section 32(2) that a governing body of a maintained school should cease to maintain a plan;
 - (l) a refusal to decide a matter on the basis that section 11(3)(b), 13(2)(b), 18(2)(b) or 29(2)(a) applies (no material change in needs and no new information that materially affects the decision).
- (3) A child or a child's parent may apply to the Education Tribunal for Wales for a declaration that the child either does or does not have the capacity to understand—
- (a) information or documents that must be given to a child under this Part, or
 - (b) what it means to exercise the rights conferred on a child by this Part.
- (4) The exercise of rights under this section is subject to—
- (a) provision made by regulations under sections 74, 75, 83 and 85(8);
 - (b) section 85(4).

Modifications etc. (not altering text)

C1 S. 70 modified (1.9.2021) by [The Additional Learning Needs \(Wales\) Regulations 2021 \(S.I. 2021/401\)](#), regs. 1(2), **41**

Commencement Information

II S. 70 in force at 1.9.2021 by [S.I. 2021/373](#), **art. 8(f)**

Changes to legislation:

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Changes and effects yet to be applied to :

- specified provision(s) coming into force by [S.I. 2021/381 art. 23](#) (This commencement not applied to legislation.gov.uk. S.I. 2021/381 revoked (12.8.2021) by S.I. 2021/938, art. 3)
- specified provision(s) coming into force by [S.I. 2021/383 art. 23](#) (This commencement not applied to legislation.gov.uk. S.I. 2021/383 revoked (12.8.20210) by S.I. 2021/938, art. 4)

Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 4(3)(ca)(cb) inserted by [2022 asc 1 Sch. 4 para. 39\(2\)](#)
- s. 5(1)(da) inserted by [2022 asc 1 Sch. 4 para. 39\(3\)](#)
- s. 65(4)(da)(db) inserted by [2022 asc 1 Sch. 4 para. 39\(5\)](#)
- Sch. 1 para. 4(32)(a)(i)para. 4(32)(a)(ii)(b) coming into force by [S.I. 2022/893 art. 2\(o\)\(xi\)](#)