

*These notes refer to the Additional Learning Needs
and Education Tribunal (Wales) Act 2018 (c.2)*

EXPLANATORY NOTES

ADDITIONAL LEARNING NEEDS AND EDUCATION TRIBUNAL (WALES) ACT 2018

INTRODUCTION

GENERAL OVERVIEW OF THE ACT

COMMENTARY ON SECTIONS OF THE ACT

PART 1 – OVERVIEW

Section 1 - Overview of this Act

PART 2 – ADDITIONAL LEARNING NEEDS

Chapter 1 – Key Terms, Code and Participation

Key terms

Section 2 - Additional learning needs

Section 3 - Additional learning provision

Code of practice

Section 4 - Additional learning needs code

Section 5 - Procedure for making the code

Participation, United Nations conventions and access to information

Section 6 - Duty to involve and support children, their parents and young people

Sections 7 and 8 – Duties to have regard to the United Nations Convention on the Rights of the Child and the United Nations Convention of the Rights of Persons with Disabilities

Section 9 - Advice and information

Preparing and maintaining individual development plans

Section 10 - Individual development plans

Section 11 - Duty to decide: maintained schools and further education institutions

These notes refer to the Additional Learning Needs and Education Tribunal (Wales) Act 2018 (c.2)

Section 12 - Duties to prepare and maintain plans: maintained schools and further education institutions

Section 13 - Duty to decide: local authorities

Section 14 - Duties to prepare and maintain plans: local authorities

Additional learning provision for looked after children

Sections 15 to 19 - Key terms, Amendments to the Social Services and Well-being (Wales) Act 2014, Duty to refer a matter to a local authority that looks after a child, Duty to decide whether a looked after child has additional learning needs, Duties to prepare and maintain plans for looked after children

Section 20 - Additional learning provision: Local Health Boards and NHS Trusts

Section 21 - Individual development plans: Local Health Boards and NHS Trusts

Information about plans

Section 22 - Provision of information about individual development plans

Review of plans

Section 23 - Review and revision of individual development plans

Section 24 - Review and revision of individual development plans for looked after children

Section 25 - Relationship of individual development plans to other similar documents

Local authority reconsideration of governing body decisions and plans

Section 26 - Reconsideration by local authorities of decisions under section 11(1)

Section 27 - Reconsideration by local authorities of plans maintained under section 12

Section 28 - Local authority duty to decide whether to take over governing body plans

Section 29 - Circumstances in which the duties in sections 26(2), 27(2) and 28(3) do not apply

Section 30 - Registration or enrolment at more than one institution

Ceasing to maintain plans

Section 31 - Ceasing to maintain individual development plans

Section 32 - Reconsideration by local authorities of decisions of governing bodies under section 31

*These notes refer to the Additional Learning Needs
and Education Tribunal (Wales) Act 2018 (c.2)*

Section 33 - Limitation on ceasing to maintain plans to allow
reconsideration or appeal

Section 34 - Individual development plan after a young person's 25th
birthday

Transfer of plans

Section 35 - Transfer of duties to maintain plans

Section 36 – Request to transfer plan to governing body of further
education institution

Section 37 - Regulations about transfer of individual development plans

Powers to direct governing bodies of maintained schools

Section 38 - local authority power to direct governing bodies of
maintained schools

Additional learning provision for detained persons (sections 39 – 45)

Section 39 - Meaning of “detained person” and other key terms

Section 40 - Duty to prepare individual development plans for detained
persons

Section 41 - Circumstances in which the duty in section 40(2) does not
apply

Section 42 - Duty to keep individual development plans for detained
persons

Section 43 - Release of a detained person

Section 44 - Certain provisions of Part 2 not to apply to children and
young persons in detention

Section 45 – Detention under Part 3 of the Mental Health Act 1983

Necessity of plans

Section 46 – Regulations about deciding whether an individual
development plan is necessary

Functions relating to securing additional learning provision

Section 47 - Duty to take all reasonable steps to secure additional
learning provision

Section 48 - Duty to admit children to named maintained schools

Section 49 - No power to charge for provision secured under this Part

Section 50 - Welsh Ministers' duties to secure post-16 education and
training

*These notes refer to the Additional Learning Needs
and Education Tribunal (Wales) Act 2018 (c.2)*

Section 51 - Duty to favour education for children at mainstream maintained schools

Section 52 - Children with additional learning needs in mainstream maintained schools

Section 53 - Additional learning provision otherwise than in schools

Section 54 - Amendments to registration requirements for independent schools in Wales

Section 55 - Conditions applicable to securing additional learning provision at independent schools

Section 56 - List of independent special post-16 institutions

Section 57 - Abolition of approval of non-maintained special schools in Wales

Section 58 - Abolition of approval of independent schools in Wales

Section 59 - Additional learning provision outside England and Wales

Additional learning needs co-ordinating officers

Section 60 - Additional learning needs co-ordinator

Section 61 - Designated education clinical lead officer

Section 62 – Early years additional learning needs lead officer

Miscellaneous functions

Section 63 - Duty to keep additional learning provision under review

Section 64 - Duty of health bodies to notify parents etc.

Section 65 - Duties to provide information and other help

Section 66 - Right of local authority to access premises of schools and other institutions

Section 67 - Provision of goods or services in relation to additional learning provision

Local authority arrangements

Section 68 - Arrangements for the avoidance and resolution of disagreements

Section 69 - Independent advocacy services

Appeals and applications to the Tribunal

Section 70 - Appeal and application rights

Section 71 - Decisions on appeals and applications under section 70

*These notes refer to the Additional Learning Needs
and Education Tribunal (Wales) Act 2018 (c.2)*

Section 72 - Appeal rights: detained persons

Section 73 - Decisions on appeals under section 72

Section 74 - Regulations about appeals and applications

Section 75 - Regulations about procedure

Section 76 – NHS Bodies: evidence and Tribunal recommendations

Section 77 - Compliance with orders

Section 78 – Power to share documents and other information with the
Welsh Ministers

Section 79 - Offence

Section 80 - Allowances for attendance at the Education Tribunal for
Wales

Section 81 - Appeals from the Education Tribunal for Wales to the
Upper Tribunal

Chapter 5 – General

Section 82 - Regulations about disclosure and use of information

Section 83 - Parents and young people lacking capacity

Section 84 - Capacity of children

Section 85 - Case friends for children who lack capacity

Higher education courses provided by further education institutions

Section 86 – Students at further education institutions undertaking
higher education courses

Section 87 - Application of reconsideration provisions to pupils and
students resident in England

Section 88 - Giving notice etc. under this Part

Section 89 - Review of additional learning provision in Welsh

Section 90 - Power to amend duties to secure additional learning
provision in Welsh

PART 3 – EDUCATION TRIBUNAL FOR WALES

Section 91 - Constitution of the Education Tribunal for Wales

Section 92 - The President and members of the panels

Section 93 – Deputy President of the Tribunal

Section 94 - Remuneration and expenses

*These notes refer to the Additional Learning Needs
and Education Tribunal (Wales) Act 2018 (c.2)*

PART 4 – MISCELLANEOUS AND GENERAL

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

Section 96 - Minor and consequential amendments and repeals

Section 97 - Power to make consequential and transitional provision etc.

Section 98 - Regulations

Section 99 - General interpretation

Section 100 - Coming into force

Section 101- Short title and inclusion as one of the Education Acts

Schedule 1 – Minor and Consequential Amendments and Repeals

RECORD OF PROCEEDINGS IN NATIONAL ASSEMBLY FOR WALES