



# Additional Learning Needs and Education Tribunal (Wales) Act 2018

2018 anaw 2

## PART 2

### ADDITIONAL LEARNING NEEDS

#### CHAPTER 2

#### INDIVIDUAL DEVELOPMENT PLANS

##### *Transfer of plans*

### 35 Transfer of duties to maintain plans

(1) Subsection (3) applies where—

- (a) a child or young person becomes a registered pupil at a maintained school in Wales,
- (b) immediately before the child or young person became a registered pupil at the school an individual development plan was being maintained for the child or young person under section 12 by the governing body of another maintained school, and
- (c) it is not intended that the child or young person will continue to be provided with education or training at that other school.

(2) Subsection (3) also applies where—

- (a) a child or young person becomes a registered pupil at a maintained school in Wales before the end of September in an academic year,
- (b) the child or young person was a registered pupil at another maintained school during the previous academic year, and

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- (c) an individual development plan was being maintained for the child or young person under section 12 by the governing body of the other school on the last day of education or training provided for him or her at the school.
- (3) The governing body of the school mentioned in subsection (1)(a) or (2)(a) must maintain the individual development plan; and the plan is to be treated as being maintained under section 12 for the purposes of this Part.
- (4) Subsection (6) applies where—
  - (a) a young person becomes enrolled as a student at an institution in the further education sector in Wales before the end of September in an academic year,
  - (b) the young person was a registered pupil at a maintained school during the previous academic year, and
  - (c) an individual development plan was being maintained for the young person under section 12 by the governing body of the school on the last day of education or training provided for him or her at the school.
- (5) In subsection (4)(a) and (b), “academic year” means any period from 1 August to 31 July.
- (6) The governing body of the institution in the further education sector in Wales must maintain the individual development plan; and the plan is to be treated as being maintained under section 12 for the purposes of this Part.
- (7) Subsection (8) applies where—
  - (a) a child or young person becomes the responsibility of a local authority, and
  - (b) immediately before the child or young person became the responsibility of the authority an individual development plan was being maintained for the child or young person under section 14 by another local authority.
- (8) The local authority mentioned in subsection (7)(a) must maintain the individual development plan; and the plan is to be treated as being maintained under section 14 for the purposes of this Part.
- (9) Subsection (10) applies where—
  - (a) a child becomes looked after by a local authority, and
  - (b) immediately before the child became looked after, an individual development plan was being maintained for the child under section 12 or 14.
- (10) The local authority that looks after the child must maintain the individual development plan; and the plan is to be treated as being maintained under section 19 for the purposes of this Part, with any provision described in the plan in accordance with section 14(6) being treated as described in accordance with section 19(4).
- (11) Subsection (12) and (13) apply where—
  - (a) a person ceases to be a looked after child (whether because he or she is over compulsory school age or otherwise (see section 15)),
  - (b) a local authority is responsible for the child or young person, and
  - (c) immediately before ceasing to be looked after, an individual development plan was being maintained for the child or young person under section 19.
- (12) The local authority that is responsible for the child or young person must maintain the individual development plan.

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- (13) The plan is to be treated as being maintained under section 14 for the purposes of this Part, with any provision described in the plan in accordance with section 19(4) being treated as described in accordance with section 14(6).

#### Commencement Information

- I1** S. 35 in force at 1.9.2021 for specified purposes by S.I. 2021/373, **arts. 3, 4** (as amended by S.I. 2021/735, **art. 2(2)(a)** and S.I. 2021/938, **art. 2(3)**)
- I2** S. 35 in force at 1.9.2021 for specified purposes by S.I. 2021/373, **arts. 6, 7** (as amended by S.I. 2021/735, **art. 2(3)(a)** and S.I. 2021/938, **art. 2(4)(5)**)
- I3** S. 35 in force at 1.1.2022 for specified purposes by S.I. 2021/1243, **art. 3(c)** (with **arts. 4-23**) (as amended by S.I. 2021/1428, **art. 2**; (10.6.2022) by S.I. 2022/663, **art. 2** and (21.8.2023) by S.I. 2023/932, **art. 2**)
- I4** S. 35 in force at 1.1.2022 for specified purposes by S.I. 2021/1245, **arts. 3(c), 4** (with **art. 1(4)**)
- I5** S. 35 in force at 1.1.2022 for specified purposes by S.I. 2021/1244, **art. 3(c)** (with **arts. 4-21**) (as amended by S.I. 2021/1428, **art. 3**; and (10.6.2022) by S.I. 2022/663, **art. 3** and (21.8.2023) by S.I. 2023/932, **art. 3**)
- I6** S. 35 in force at 1.9.2022 for specified purposes by S.I. 2022/898, **arts. 2(c), 3**
- I7** S. 35 in force at 1.9.2022 for specified purposes by S.I. 2022/895, **arts. 3(c), 4**
- I8** S. 35 in force at 1.9.2022 for specified purposes by S.I. 2022/892, **art. 3(c)** (with **arts. 2, 4-18**)
- I9** S. 35 in force at 1.9.2022 for specified purposes by S.I. 2022/893, **art. 4** (with **art. 1(2)**)
- I10** S. 35 in force at 1.9.2022 for specified purposes by S.I. 2022/897, **art. 3(c)** (with **arts. 1(8), 4-21**) (as amended (21.8.2023) by S.I. 2023/932, **art. 6**)
- I11** S. 35 in force at 1.9.2022 for specified purposes by S.I. 2022/894, **art. 3(c)**
- I12** S. 35 in force at 1.9.2022 for specified purposes by S.I. 2022/891, **art. 3(c)** (with **arts. 4-25**) (as amended (21.8.2023) by S.I. 2023/932, **art. 4**)
- I13** S. 35 in force at 1.9.2022 for specified purposes by S.I. 2022/896, **art. 3(c)** (with **arts. 4-22**) (as amended (21.8.2023) by S.I. 2023/932, **art. 5**)

### 36 Request to transfer plan to governing body of further education institution

- (1) This section applies where a local authority maintains an individual development plan for a young person who is enrolled as a student at an institution in the further education sector in Wales.
- (2) The local authority may request the governing body of the institution to become responsible for maintaining the plan.
- (3) If the governing body fails to agree to the request within a prescribed period, the local authority may refer the matter to the Welsh Ministers.
- (4) The Welsh Ministers must determine whether the governing body of the further education institution should maintain the plan.

#### Commencement Information

- I14** S. 36 in force at 2.11.2020 for specified purposes by S.I. 2020/1182, **reg. 3(1)(d)**
- I15** S. 36 in force at 1.9.2021 for specified purposes by S.I. 2021/373, **arts. 3, 4** (as amended by S.I. 2021/735, **art. 2(2)(a)** and S.I. 2021/938, **art. 2(3)**)
- I16** S. 36 in force at 1.9.2021 for specified purposes by S.I. 2021/373, **arts. 6, 7** (as amended by S.I. 2021/735, **art. 2(3)(a)** and S.I. 2021/938, **art. 2(4)(5)**)
- I17** S. 36 in force at 1.1.2022 for specified purposes by S.I. 2021/1245, **arts. 3(c), 4** (with **art. 1(4)**)

**Changes to legislation:** Additional Learning Needs and Education Tribunal (Wales) Act 2018, Cross Heading:

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- I18** S. 36 in force at 1.1.2022 for specified purposes by S.I. 2021/1243, **art. 3(c)** (with arts. 4-23) (as amended by S.I. 2021/1428, **art. 2**; (10.6.2022) by S.I. 2022/663, **art. 2**; and (21.8.2023) by S.I. 2023/932, **art. 2**)
- I19** S. 36 in force at 1.1.2022 for specified purposes by S.I. 2021/1244, **art. 3(c)** (with arts. 4-21) (as amended by S.I. 2021/1428, **art. 3**; and (10.6.2022) by S.I. 2022/663, **art. 3**; and (21.8.2023) by S.I. 2023/932, **art. 3**)
- I20** S. 36 in force at 1.9.2022 for specified purposes by S.I. 2022/895, **arts. 3(c), 4**
- I21** S. 36 in force at 1.9.2022 for specified purposes by S.I. 2022/896, **art. 3(c)** (with arts. 4-22) (as amended (21.8.2023) by S.I. 2023/932, **art. 5**)
- I22** S. 36 in force at 1.9.2022 for specified purposes by S.I. 2022/897, **art. 3(c)** (with arts. 1(8), 4-21) (as amended (21.8.2023) by S.I. 2023/932, **art. 6**)
- I23** S. 36 in force at 1.9.2022 for specified purposes by S.I. 2022/892, **art. 3(c)** (with arts. 2, 4-18)
- I24** S. 36 in force at 1.9.2022 for specified purposes by S.I. 2022/898, **arts. 2(c), 3**
- I25** S. 36 in force at 1.9.2022 for specified purposes by S.I. 2022/891, **art. 3(c)** (with arts. 4-25) (as amended (21.8.2023) by S.I. 2023/932, **art. 4**)
- I26** S. 36 in force at 1.9.2022 for specified purposes by S.I. 2022/893, **art. 4** (with art. 1(2))
- I27** S. 36 in force at 1.9.2022 for specified purposes by S.I. 2022/894, **art. 3(c)**

### 37 Regulations about transfer of individual development plans

- (1) Regulations may make further provision for, and in connection with—
- (a) the transfer under section 35 of a duty to maintain an individual development plan for a child or young person;
  - (b) the making of a request under section 36, a reference or determination under that section and the transfer of a duty to maintain an individual development plan for a young person following such a request or determination;
  - (c) the transfer in prescribed circumstances of a duty to maintain an individual development plan for a child or young person from—
    - (i) a local authority to another local authority;
    - (ii) the governing body of a maintained school or institution in the further education sector to the governing body of another maintained school or institution in the further education sector;
    - (iii) the governing body of a maintained school or institution in the further education sector to a local authority;
    - (iv) a local authority to the governing body of a maintained school or institution in the further education sector.
- (2) In this section, a reference to the governing body of a maintained school or an institution in the further education sector is to the governing body of a school or institution in Wales.

#### Commencement Information

- I28** S. 37 in force at 2.11.2020 by S.I. 2020/1182, **reg. 2(c)**

**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 (12.8.2021) 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\(o\)\(xi\)](#)