



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

2018 anaw 2

## PART 4

### MISCELLANEOUS AND GENERAL

#### *Miscellaneous*

#### **95 Meaning of “in the area” of a local authority**

In section 579 of the Education Act 1996 (c. 56)—

- (a) in subsection (3A), after “Wales” insert “ or who would be wholly or mainly resident in the area of a local authority in Wales were it not for provision secured for the person under Part 2 of the Additional Learning Needs and Education Tribunal (Wales) Act 2018 ”.
- (b) in subsection (3B), after “England” insert “ or who would be wholly or mainly resident in the area of a local authority in England were it not for provision secured for the person under Part 3 of the Children and Families Act 2014 ”.
- (c) After subsection (3B) insert—

“(3C) The Welsh Ministers may make further provision by regulations about the meaning of references in this Act to a person who is “in the area” of a local authority in Wales.”

#### **Commencement Information**

- I1** S. 95 in force at 2.11.2020 for specified purposes by [S.I. 2020/1182, reg. 3\(1\)\(m\)](#)
- I2** S. 95 in force at 1.9.2021 in so far as not already in force by [S.I. 2021/373, art. 8\(h\)](#)

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## General

### 96 Minor and consequential amendments and repeals

Schedule 1 provides for minor and consequential amendments and repeals.

#### Commencement Information

- I3** S. 96 in force at 2.11.2020 for specified purposes by [S.I. 2020/1182, reg. 3\(1\)\(n\)](#)
- I4** S. 96 in force at 1.9.2021 for specified purposes by [S.I. 2021/373, arts. 3, 4](#) (as amended by [S.I. 2021/938, art. 2\(3\)](#))
- I5** S. 96 in force at 1.9.2021 for specified purposes by [S.I. 2021/373, arts. 6, 7](#) (as amended by [S.I. 2021/938, art. 2\(4\)\(5\)](#))
- I6** S. 96 in force at 1.9.2021 for specified purposes by [S.I. 2021/373, art. 8\(i\)](#)
- I7** [S. 96](#) in force at 1.1.2022 for specified purposes by [S.I. 2021/1244, art. 3\(n\)](#) (with [arts. 4-21](#)) (as amended by [S.I. 2021/1428, art. 3](#); (10.6.2022) by [S.I. 2022/663, art. 3](#) and (21.8.2023) by [S.I. 2023/932, art. 3](#))
- I8** [S. 96](#) in force at 1.1.2022 for specified purposes by [S.I. 2021/1243, art. 3\(n\)](#) (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](#))
- I9** [S. 96](#) in force at 1.1.2022 for specified purposes by [S.I. 2021/1245, arts. 3\(n\), 4](#) (with [art. 1\(4\)](#))
- I10** [S. 96](#) in force at 1.9.2022 for specified purposes by [S.I. 2022/894, art. 3\(n\)](#)
- I11** [S. 96](#) in force at 1.9.2022 for specified purposes by [S.I. 2022/891, art. 3\(n\)](#) (with [arts. 4-25](#)) (as amended (21.8.2023) by [S.I. 2023/932, art. 4](#))
- I12** [S. 96](#) in force at 1.9.2022 for specified purposes by [S.I. 2022/893, art. 4](#) (with [art. 1\(2\)](#))
- I13** [S. 96](#) in force at 1.9.2022 for specified purposes by [S.I. 2022/892, art. 3\(n\)](#) (with [arts. 2, 4-18](#))
- I14** [S. 96](#) in force at 1.9.2022 for specified purposes by [S.I. 2022/895, arts. 3\(n\), 4](#)
- I15** [S. 96](#) in force at 1.9.2022 for specified purposes by [S.I. 2022/897, art. 3\(n\)](#) (with [arts. 1\(8\), 4-21](#)) (as amended (21.8.2023) by [S.I. 2023/932, art. 6](#))
- I16** [S. 96](#) in force at 1.9.2022 for specified purposes by [S.I. 2022/896, art. 3\(n\)](#) (with [arts. 4-22](#)) (as amended (21.8.2023) by [S.I. 2023/932, art. 5](#))
- I17** [S. 96](#) in force at 1.9.2022 for specified purposes by [S.I. 2022/898, arts. 2\(n\), 3](#)

### 97 Power to make consequential and transitional provision etc.

- (1) If the Welsh Ministers consider it necessary or expedient for the purposes of, in consequence of, or for giving full effect to any provision of this Act, they may by regulations make—
  - (a) any supplementary, incidental or consequential provision, and
  - (b) any transitory, transitional or saving provision.
- (2) Regulations under this section may amend, repeal or revoke any enactment or statutory document.
- (3) A statutory document amended by regulations under this section must be published in its amended form by the person having the function of making or issuing the document.
- (4) In this section, “statutory document” means an instrument (other than a statutory instrument) that is—
  - (a) made or issued under an enactment, and
  - (b) subject to a National Assembly for Wales procedure required by an enactment before it may be made or issued.

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## 98 Regulations

- (1) A power to make regulations under this Act is to be exercised by statutory instrument.
- (2) A power to make regulations under this Act includes power to make—
  - (a) different provision for different purposes or cases;
  - (b) incidental, supplementary, consequential, transitory, transitional or saving provision.
- (3) A statutory instrument containing any of the following may not be made unless a draft of the instrument has been laid before, and approved by resolution of, the National Assembly for Wales—
  - (a) regulations under section 3(4), 39(2), 45, 46, 60(4), 74(1), 75, 82, 83, 85, 90 or 99(8);
  - (b) the first regulations made under section 15(2);
  - (c) regulations made under section 97 which amend or repeal any provision of an Act of Parliament or a Measure or Act of the National Assembly for Wales.
- (4) Any other statutory instrument containing regulations made by the Welsh Ministers under this Act is subject to annulment in pursuance of a resolution of the National Assembly for Wales.

## 99 General interpretation

- (1) In this Act—
  - “additional learning needs” (“*anghenion dysgu ychwanegol*”) has the meaning given by section 2;
  - “additional learning provision” (“*darpariaeth ddysgu ychwanegol*”) has the meaning given by section 3;
  - “beginning of detention” (“*dechrau'r cyfnod o gadw person yn gaeth*”) has the meaning given by section 39;
  - “case friend” (“*cyfaill achos*”) means a person appointed under section 85;
  - “child” (“*plentyn*”) means a person not over compulsory school age;
  - FI ...
  - “detained person” (“*person sy'n cael ei gadw'n gaeth*”) has the meaning given by section 39;
  - “education” (“*addysg*”) includes full-time and part-time education, but does not include higher education; and “educational” (“*addysgol*”) and “educate” (“*addysgu*”) (and other related terms) are to be interpreted accordingly;
  - “EHC plan” (“*cynllun AIG*”) means a plan within section 37(2) of the Children and Families Act 2014 (c. 6) (education, health and care plans);
  - “enactment” (“*deddfiad*”) means a provision contained in any of the following (whenever enacted or made)—
    - (a) an Act of Parliament;
    - (b) a Measure or an Act of the National Assembly for Wales (including a provision of this Act);
    - (c) subordinate legislation made under an Act falling within paragraph (a) or a Measure or Act falling within paragraph (b);

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“governing body” (“*corff llywodraethu*”), in relation to the governing body of an institution in the further education sector, has the meaning given by section 90 of the Further and Higher Education Act 1992 (c. 13);

“home authority” (“*awdurdod cartref*”) has the meaning given by section 39;

“independent reviewing officer” (“*swyddog adolygu annibynnol*”) has the meaning given by section 15;

“individual development plan” (“*cynllun datblygu unigol*”) has the meaning given by section 10;

“institution in the further education sector” (“*sefydliad yn y sector addysg bellach*”) means an institution falling within section 91(3) of the Further and Higher Education Act 1992;

[<sup>F2</sup>“integrated care board” (“*bwrdd gofal integredig*”) means a body established under section 14Z25 of the National Health Service Act 2006;]

“lay panel” (“*panel lleyg*”) means the panel of persons appointed under section 91(5);

“legal chair panel” (“*panel cadeirydd cyfreithiol*”) means the panel of persons appointed under section 91(4) (and “legal chair” (“*cadeirydd cyfreithiol*”) means a member of the panel);

“local authority” (“*awdurdod lleol*”) means the council of a county or county borough in Wales, except where specific reference is made to a local authority in England;

“Local Health Board” (“*Bwrdd Iechyd Lleol*”) means a Local Health Board established under section 11 of the National Health Service (Wales) Act 2006 (c. 42);

“mainstream institution in the further education sector” (“*sefydliad prif ffrwd yn y sector addysg bellach*”) means an institution in the further education sector that is not specially organised to provide education or training for persons with additional learning needs;

“mainstream maintained school” (“*ysgol brif ffrwd a gynhelir*”) means a maintained school that is not—

- (a) a special school, or
- (b) a pupil referral unit;

“maintained school” (“*ysgol a gynhelir*”) means—

- (a) a community, foundation or voluntary school,
- (b) a community or foundation special school not established in a hospital,
- (c) a maintained nursery school, or
- (d) a pupil referral unit;

[<sup>F3</sup>“NHS England” (“*GIG Lloegr*”) means the body established under section 1H of the National Health Service Act 2006;]

“NHS body” (“*corff GIG*”) means—

- (a) a Local Health Board, or
- (b) an NHS trust;

“NHS foundation trust” (“*ymddiriedolaeth sefydledig GIG*”) has the meaning given by section 30 of the National Health Service Act 2006;

“NHS trust” (“*ymddiriedolaeth GIG*”) means a National Health Service trust established under section 18 of the National Health Service (Wales) Act 2006;

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“personal education plan (“*cyllun addysg personol*”) has the meaning given by section 15;

“President” (“*Llywydd*”) means the President of the Education Tribunal for Wales appointed under section 91;

“proprietor” (“*perchennog*”), in relation to an institution that is not a school, means the person or body of persons responsible for the management of the institution;

“prescribed” (“*rhagnodedig*” and “*a ragnodir*”) means prescribed in regulations;

“pupil referral unit” (“*uned cyfeirio disgyblion*”) has the meaning given by section [F<sup>4</sup>19(2)] [F<sup>4</sup>19A(2)] of the Education Act 1996 (c. 56);

“regulations” (“*rheoliadau*”) means regulations made by the Welsh Ministers;

“relevant youth accommodation” (“*llety ieuenctid perthnasol*”) has the meaning given by section 39;

“Special Health Authority” (“*Awdurdod Iechyd Arbennig*”) means a Special Health Authority established under section 22 of the National Health Service (Wales) Act 2006 or section 28 of the National Health Service Act 2006;

“training” (“*hyfforddiant*”) includes—

- (a) full-time and part-time training;
- (b) vocational, social, physical and recreational training;

“Tribunal” (“*Tribiwnlys*”) means the Education Tribunal for Wales (see section 91);

“young person” (“*person ifanc*”) means a person over compulsory school age, but under 25;

“youth offending team” (“*tîm troseddwyd ifanc*”) means a team established under section 39 of the Crime and Disorder Act 1998 (c. 37).

- (2) In the definition of “maintained school” in subsection (1)—
  - (a) a community, foundation or voluntary school, and
  - (b) a community or foundation special school,have the meaning given by the School Standards and Framework Act 1998 (c. 31).
- (3) In this Act—
  - (a) an institution in the further education sector is in Wales if its activities are carried on wholly or mainly in Wales;
  - (b) an institution in the further education sector is in England if its activities are carried on wholly or mainly in England.
- (4) For the purposes of this Act, a local authority is responsible for a child or young person if he or she is in the area of the authority.
- (5) A reference in this Act (however expressed) to a child who is looked after by a local authority has the meaning given by section 15.
- (6) The Education Act 1996 (“the 1996 Act”) and the preceding provisions of this Act (except so far as they amend other Acts) are to be interpreted as if those provisions were contained in the 1996 Act.
- (7) Where an expression is given for the purposes of any provision of this Act a meaning different from that given to it for the purposes of the 1996 Act, that meaning is to

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apply for the purposes of that provision instead of the one given for the purposes of the 1996 Act.

- (8) Regulations may amend the definition of “NHS body” so that it includes a Special Health Authority established under section 22 of the National Health Service (Wales) Act 2006.

#### **Textual Amendments**

- F1** Words in s. 99(1) omitted (1.7.2022) by virtue of Health and Care Act 2022 (c. 31), s. 186(6), **Sch. 4 para. 234(a)(i)**; S.I. 2022/734, reg. 2(a), Sch. (with regs. 13, 29, 30)
- F2** Words in s. 99(1) inserted (1.7.2022) by Health and Care Act 2022 (c. 31), s. 186(6), **Sch. 4 para. 234(a)(ii)**; S.I. 2022/734, reg. 2(a), Sch. (with regs. 13, 29, 30)
- F3** Words in s. 99(1) inserted (1.7.2022) by Health and Care Act 2022 (c. 31), s. 186(6), **Sch. 1 para. 37(a)**; S.I. 2022/734, reg. 2(a), Sch. (with regs. 13, 29, 30)
- F4** Word in s. 99(1) substituted (1.9.2022 for specified purposes, 1.9.2023 for specified purposes) by The Curriculum and Assessment (Wales) Act 2021 (Consequential Amendments) (Primary Legislation) Regulations 2022 (S.I. 2022/744), reg. 1(3), **Sch. 2 para. 18(2)**

#### **100 Coming into force**

- (1) This section and sections 1, 97, 98, 99 and 101 come into force on the day after the day on which this Act receives Royal Assent.
- (2) Paragraph 5 of Schedule 1 comes into force at the end of the period of two months beginning with the day on which this Act receives Royal Assent.
- (3) The remaining provisions of this Act come into force on a day appointed by the Welsh Ministers in an order made by statutory instrument.
- (4) An order under subsection (3) may—
- (a) appoint different days for different purposes or cases;
  - (b) make transitory, transitional or saving provision in connection with the coming into force of a provision of this Act.

#### **101 Short title and inclusion as one of the Education Acts**

- (1) The short title of this Act is the Additional Learning Needs and Education Tribunal (Wales) Act 2018.
- (2) This Act is to be included in the list of Education Acts set out in section 578 of the Education Act 1996 (c. 56).

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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\(o\)\(xi\)](#)