
WELSH STATUTORY INSTRUMENTS

2021 No. 401

The Additional Learning Needs (Wales) Regulations 2021

PART 2

INDIVIDUAL DEVELOPMENT PLANS

Detention under Part 3 of Mental Health Act 1983; application of 2018 Act

Relevant local authority

21.—(1) Where the child or young person was a detained person immediately before the beginning of the child or young person’s detention in hospital under Part 3 of the 1983 Act, “the relevant local authority” means the child or young person’s home authority.

(2) Where the child or young person was not a detained person immediately before the beginning of the child or young person’s detention in hospital under Part 3 of the 1983 Act—

(a) if the child or young person was looked after immediately before the beginning of that detention or has been looked after at any time since then, the “relevant local authority” means the local authority in Wales or England that looks after, or that most recently looked after, the child or young person;

(b) otherwise the “relevant local authority” means the local authority in whose area the child or young person is ordinarily resident.

(3) But a local authority in England is not a relevant local authority.

(4) For the purpose of paragraph (1), the definitions of “home authority” and “the beginning of the detention” (see section 39 of the 2018 Act applying meanings given in section 562J of the Education Act 1996(1) subject, in the case of “home authority” to any regulations under section 39(2)) apply as if the detention in hospital under Part 3 of the 1983 Act continues to be detention in relevant youth accommodation.

(5) For the purpose of paragraph (2), a child or young person is looked after by a local authority if the child or young person is looked after by a local authority for the purposes of Part 6 of the Social Services and Well-being (Wales) Act 2014(2) or by a local authority in England for the purposes of the Children Act 1989(3).

(6) In determining for the purpose of paragraph (2) where a child or young person is ordinarily resident, any period when the person is subject to a detention order is to be disregarded.

(1) 1996 c. 56. Section 562J was inserted by the Apprenticeships, Skills, Children and Learning Act 2009 (c. 22), section 50. Relevant amendments to it are made by S.I. 2010/1158, Schedule 2, Part 1, paragraph 16(1), (2) and (4).

(2) 2014 anaw 4. Section 74 provides for the interpretation of references in that Act to a child who is looked after by a local authority.

(3) 1989 c. 41. Sections 22(1) and 105(4) provide for the interpretation of references to a child who is looked after. Section 22(1) has been amended by the Local Government Act 2000 (c. 22), Schedule 5, paragraph 19, the Children (Leaving Care) Act 2000 (c. 35), section 2(1) and (2) and S.I. 2016/413, regulations 55 and 69(a). Section 105(4) was substituted by S.I. 2016/413, regulations 55 and 106(b).

Changes to legislation: There are currently no known outstanding effects for the The Additional Learning Needs (Wales) Regulations 2021, Section 21. (See end of Document for details)

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Commencement Information

II [Reg. 21](#) in force at 1.9.2021, see [reg. 1\(2\)](#)

Changes to legislation:

There are currently no known outstanding effects for the The Additional Learning Needs (Wales) Regulations 2021, Section 21.