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WELSH STATUTORY INSTRUMENTS

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**2021 No. 861 (W. 200)**

**EDUCATION, WALES**

**The Additional Learning Needs and Education Tribunal (Wales)  
Act 2018 (Consequential Amendments) Regulations 2021**

*Made* - - - - *15 July 2021*

*Coming into force* - - *1 September 2021*

The Welsh Ministers in exercise of the powers in section 97(1) and (2) of the Additional Learning Needs and Education Tribunal (Wales) Act 2018(1) make the following Regulations.

In accordance with section 98(3)(c)(2) of that Act, a draft of these Regulations was laid before, and approved by a resolution of, Senedd Cymru.

**PART 1**

**Introduction**

**Title and commencement**

1. The title of these Regulations is the Additional Learning Needs and Education Tribunal (Wales) Act 2018 (Consequential Amendments) Regulations 2021 and they come into force on 1 September 2021.

**PART 2**

**Amendments to Primary Legislation**

**Local Government Act 1974**

2.—(1) The Local Government Act 1974(3) is amended as follows.

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(1) [2018 anaw 2](#).

(2) The references in section 98(3) to the National Assembly for Wales now have effect as references to Senedd Cymru, by virtue of section 150A(2) of the Government of Wales Act 2006 (c. 32).

(3) [1974 c. 7](#).

(2) In Schedule 5, in paragraph 5(2)(b)(4), after “special educational needs (within the meaning given by section 579(1) of the Education Act 1996)” insert “or additional learning needs (within the meaning given by section 2 of the Additional Learning Needs and Education Tribunal (Wales) Act 2018)”.

### **Education Act 1997**

3.—(1) The Education Act 1997(5) is amended as follows.

(2) In section 32(6)(a)(6), for “special educational needs (as defined in section 312 of the Education Act 1996)” substitute “additional learning needs (as defined in section 2 of the Additional Learning Needs and Education Tribunal (Wales) Act 2018)”.

### **Special Educational Needs and Disability Act 2001**

4.—(1) The Special Educational Needs and Disability Act 2001(7) is amended as follows.

(2) In Schedule 8, Part 1, omit paragraph 12.

### **Education Act 2002**

5.—(1) The Education Act 2002(8) is amended as follows.

(2) In section 1(3)(9), in paragraph (g) of the definition of “qualifying body”, omit “or the National Assembly for Wales”.

(3) In section 2(5)(10), for “children with special educational needs” substitute—  
“—

(a) in relation to England, children with special educational needs, or

(b) in relation to Wales, persons under 25 with special educational needs.”

(4) After section 92 (pupils with EHC plans) insert—

#### **“Pupils with Individual Development Plans**

**92A.** The additional learning provision described in an individual development plan prepared or maintained by a local authority in Wales under Part 2 of the Additional Learning Needs and Education Tribunal (Wales) Act 2018 may include provision—

(a) excluding the application of the National Curriculum for England, or

(b) applying the National Curriculum for England with such modifications as may be specified in the plan.”

### **Nationality, Immigration and Asylum Act 2002**

6.—(1) The Nationality, Immigration and Asylum Act 2002(11) is amended as follows.

(4) Paragraph 5 of Schedule 5 was amended by paragraph 63 of Schedule 3 to the Children and Families Act 2014 (c. 6). Paragraph 5 also includes other amendments which are not relevant to these Regulations.

(5) 1997 c. 44.

(6) There are amendments to section 32 which are not relevant to these Regulations.

(7) 2001 c. 10.

(8) 2002 c. 32.

(9) Section 1 was amended by paragraph 1 of Schedule 16 to the Education and Inspections Act 2006 (c. 40). Section 1 also includes other amendments which are not relevant to these Regulations. Paragraph (g) of the definition is substituted by the Education and Skills Act 2008 (c. 25) but the substitution is not yet in force.

(10) There are amendments to section 2 which are not relevant to these Regulations.

(11) 2002 c. 41.

- (2) In section 36—
- (a) in subsection (3)(b), for “a statement in respect of the child under section 324 of the Education Act 1996 (c. 56) (special educational needs)” substitute “an individual development plan maintained for the child under section 14 or 19 of the Additional Learning Needs and Education Tribunal (Wales) Act 2018”;
  - (b) omit subsection (5)(d) and (e);
  - (c) after subsection (5)(f) omit “and”;
  - (d) after subsection (5)(g) insert “, and”;
  - (e) after subsection (5)(g) insert—
    - “(h) section 51 of the Additional Learning Needs and Education Tribunal (Wales) Act 2018 (duty to favour education for children at mainstream maintained schools).”;
  - (f) for subsection (6) substitute—
    - “(6) The power of the Education Tribunal for Wales under section 71(1) of the Additional Learning Needs and Education Tribunal (Wales) Act 2018 (decisions on appeals under section 70) is subject to subsection (2) above.”;
  - (g) in subsection (7)—
    - (i) in the words before paragraph (a), after “Children and Families Act 2014” insert “, Part 2 of the Additional Learning Needs and Education Tribunal (Wales) Act 2018” and after “special educational needs” insert “or additional learning needs”;
    - (ii) after paragraph (a) insert—
      - “(aa) the child receiving the additional learning provision called for by the child’s additional learning needs,”;
  - (h) for subsection (9)(b) substitute—
    - “(b) the person responsible for education at an accommodation centre may refer a case to a local authority under section 12(2)(a) of the Additional Learning Needs and Education Tribunal (Wales) Act 2018 as though—
      - (i) a child for whom education is provided at the centre under section 29(1)(f) were a child who is a registered pupil at a school, and
      - (ii) that person were the governing body of the school.”;
  - (i) omit subsection (9)(c).

### **Education Act 2005**

- 7.—(1) The Education Act 2005(12) is amended as follows.
- (2) In section 28(13), omit subsections (2)(d) and (4)(d).

### **Education and Inspections Act 2006**

- 8.—(1) The Education and Inspections Act 2006(14) is amended as follows.

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(12) 2005 c. 18.

(13) There are amendments to section 28 which are not relevant to these Regulations.

(14) 2006 c. 40.

(2) In section 16(1)(c)(**15**), after “section 324 of EA 1996 (statement of special educational needs)” insert “or an individual development plan under section 14 or 19 of the Additional Learning Needs and Education Tribunal (Wales) Act 2018”.

(3) In section 88(5), omit “or the Assembly” in both places it occurs.

#### **Qualifications Wales Act 2015**

**9.**—(1) The Qualifications Wales Act 2015(**16**) is amended as follows.

(2) In section 57(5)(a), after “special educational needs” insert “or additional learning needs”.

#### **Wales Act 2017**

**10.**—(1) The Wales Act 2017(**17**) is amended as follows.

(2) In section 59(1), for paragraph (d) substitute—

“(d) the Education Tribunal for Wales or Tribiwnlys Addysg Cymru;”.

(3) Omit section 62(4).

#### **Coronavirus Act 2020**

**11.**—(1) The Coronavirus Act 2020(**18**) is amended as follows.

(2) In Schedule 17, Part 1, paragraph 7(5)(**19**), after paragraph (g) insert—

“(ga) sections 13(1), 14(10), 19(7), 23(1) and 24(1) of the Additional Learning Needs and Education Tribunal (Wales) Act 2018 (provisions relating to individual development plans);”.

15 July 2021

*Jeremy Miles*  
Minister for Education and Welsh Language, one  
of the Welsh Ministers

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(15) Section 16 was amended by paragraph 81 of Schedule 3(2) to the Children and Families Act 2014. There are other amendments to section 16 which are not relevant to these Regulations.

(16) 2015 anaw 5.

(17) 2017 c. 4.

(18) 2020 c. 7.

(19) There are amendments to paragraph 7 which are not relevant to these Regulations.

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## **EXPLANATORY NOTE**

*(This note is not part of the Regulations)*

These Regulations are made in consequence of the Additional Learning Needs and Education Tribunal (Wales) Act 2018. That Act reforms the law on education and training for children and young people with additional learning needs and renames the Special Educational Needs Tribunal for Wales as the Education Tribunal for Wales.

These Regulations update references in primary legislation to reflect these changes.

The Welsh Ministers' Code of Practice on the carrying out of Regulatory Impact Assessments was considered in relation to these Regulations. As a result it was not considered necessary to carry out a regulatory impact assessment as to the likely costs and benefits of complying with these Regulations.