
WELSH STATUTORY INSTRUMENTS

2022 No. 897

The Additional Learning Needs and Education Tribunal (Wales) Act 2018 (Commencement No. 14 and Transitional and Saving Provisions) Order 2022

Title and interpretation

1.—(1) The title of this Order is the Additional Learning Needs and Education Tribunal (Wales) Act 2018 (Commencement No. 14 and Transitional and Saving Provisions) Order 2022.

(2) In this Order—

“the 1996 Act” (“*Deddf 1996*”) means the Education Act 1996(1);

“the 2014 Act” (“*Deddf 2014*”) means the Children and Families Act 2014(2);

“the Act” (“*y Ddeddf*”) means the Additional Learning Needs and Education Tribunal (Wales) Act 2018;

“a child educated other than at school” (“*plentyn a addysgir ac eithrio yn yr ysgol*”) means a child for whom a local authority in Wales has made arrangements for the provision of education otherwise than at school who is within the authority’s area and—

(a) is of compulsory school age,

(b) by reason of illness, exclusion from school or otherwise, may not receive suitable education for a period unless such arrangements are made for the child, and

(c) is not a registered pupil at a maintained school;

“child” (“*plentyn*”) means a person who is not over compulsory school age;

“code” (“*cod*”) means a code on additional learning needs issued under section 4 of the Act;

“compulsory school age” (“*oedran ysgol gorfodol*”) has the same meaning as in section 8 of the 1996 Act;

“EHC needs assessment” (“*asesiad o anghenion AIG*”) has the same meaning as in section 36(2) of the 2014 Act;

“EHC plan” (“*cynllun AIG*”) has the same meaning as in section 37(2)(3) of the 2014 Act;

“in the area of a local authority in England” (“*yn ardal awdurdod lleol yn Lloegr*”) has the same meaning as in section 579(3A)(4) of the 1996 Act;

“in the area of a local authority in Wales” (“*yn ardal awdurdod lleol yng Nghymru*”) has the same meaning as in section 579(3B)(5) of the 1996 Act;

(1) 1996 c. 56.

(2) 2014 c. 6.

(3) Amended by the Care Act 2014 and Children and Families Act 2014 (Consequential Amendments) Order 2015 (S.I. 2015/914), article 2 and paragraph 97 of the Schedule.

(4) Inserted by Children and Families Act 2014 (c. 6), section 82 and paragraphs 1 and 59 of Schedule 3 and amended by section 95 of the Act.

(5) Inserted by Children and Families Act 2014 (c. 6), section 82 and paragraphs 1 and 59 of Schedule 3 and amended by section 95 of the Act.

“individual development plan” (“*cynllun datblygu unigol*”) means a plan prepared and maintained under Chapter 2 of Part 2 of the Act;

“institution in the further education sector” (“*sefydliad yn y sector addysg bellach*”) has the same meaning as in section 99 of the Act;

“learning difficulty” (“*anhawster dysgu*”) has the same meaning as in—

- (a) section 312(2)(6) of the 1996 Act—
 - (i) in relation to a child in the area of a local authority in Wales but not a child who is a registered pupil at a mainstream school in England,
 - (ii) in relation to a child in the area of a local authority in England who is a registered pupil at a maintained school in Wales, as if “a child in the area of a local authority in Wales” were omitted,
- (b) section 20 of the 2014 Act in relation to a child in the area of a local authority in Wales who is a registered pupil at a mainstream school in England;

“local authority” (“*awdurdod lleol*”) has the same meaning as in section 579(7) of the 1996 Act;

“looked after child” (“*plentyn sy’n derbyn gofal*”) has the same meaning as in section 15 of the Act;

“mainstream school” (“*ysgol brifffrwd*”) has the same meaning as in section 83(2) of the 2014 Act;

“maintained school” (“*ysgol a gynhelir*”) has the same meaning as in section 99 of the Act;

“nursery class” (“*dosbarth meithrin*”) means a class of pupils who are provided with nursery education at a maintained school;

“nursery education” (“*addysg feithrin*”) has the same meaning as in section 117 of the School Standards and Framework Act 1998(8);

“parent” (“*rhiant*”) has the same meaning as in section 576(9) of the 1996 Act;

“reception class” (“*dosbarth derbyn*”) means a year group in which the majority of children will, in the school year, attain the age of 5;

“registered pupil” (“*disgybl cofrestredig*”) has the same meaning as in section 434(10) of the 1996 Act;

“school year” (“*blwyddyn ysgol*”) has the same meaning as in section 579(11) of the 1996 Act;

“special educational provision” (“*darpariaeth addysgol arbennig*”) has the same meaning as in—

- (a) section 312(4)(12) of the 1996 Act—

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- (6) Amended by the Apprenticeships, Skills, Children and Learning Act 2009 (c. 22), section 59 and paragraphs 1 and 6 of Schedule 2, by the Children and Families Act 2014 (c. 6), section 82 and paragraphs 1 and 11 of Schedule 3, by the Local Education Authorities and Children’s Services Authorities (Integration of Functions) Order 2010 (S.I. 2010/1158), article 5 and paragraph 7 of Schedule 2, by the Education Act 1997 (c. 44), section 57, paragraph 23 of Schedule 7 and Schedule 8.
 - (7) Definition of “local authority” was substituted by the Local Education Authorities and Children’s Services Authorities (Integration of Functions) Order 2010 (S.I. 2010/1158), article 3.
 - (8) 1998 c. 31.
 - (9) Amended by School Standards and Framework Act 1998 (c. 31), section 140 and paragraph 180 of Schedule 30 and Schedule 31.
 - (10) Amended by School Standards and Framework Act 1998 (c. 31), section 140 and paragraph 111 of Schedule 30 and by the Local Education Authorities and Children’s Services Authorities (Integration of Functions) Order 2010 (S.I. 2010/1158), article 3.
 - (11) Definition of “school year” was inserted by the Education Act 1997 (c. 44), section 57, paragraph 43 of Schedule 7.
 - (12) Amended by the Children and Families Act 2014 (c. 6), section 82 and paragraphs 1 and 11 of Schedule 3, by the Local Education Authorities and Children’s Services Authorities (Integration of Functions) Order 2010 (S.I. 2010/1158), article 5 and paragraph 7 of Schedule 2, by the School Standards and Framework Act 1998 (c. 31), section 140 and paragraph 71 of Schedule 30 and Schedule 31.

- (i) in relation to a child in the area of a local authority in Wales but not a child who is a registered pupil at a mainstream school in England,
 - (ii) in relation to a child in the area of a local authority in England who is a registered pupil at a maintained school in Wales as if “in relation to a child in the area of a local authority in Wales” were omitted,
- (b) section 21 of the 2014 Act in relation to a child in the area of a local authority in Wales who is a registered pupil at a mainstream school in England;
- “Tribunal” (“*Tribiwnlys*”) means the Education Tribunal for Wales(**13**);
- “Tribunal Rules” (“*Rheolau’r Tribiwnlys*”) means Special Educational Needs Tribunal for Wales Regulations 2012(**14**);
- “year 2” (“*blwyddyn 2*”) means a year group in which the majority of children will, in the school year, attain the age of 7;
- “year 4” (“*blwyddyn 4*”) means a year group in which the majority of children will, in the school year, attain the age of 9;
- “year 6” (“*blwyddyn 6*”) means a year group in which the majority of children will, in the school year, attain the age of 11;
- “year 8” (“*blwyddyn 8*”) means a year group in which the majority of children will, in the school year, attain the age of 13;
- “year 10” (“*blwyddyn 10*”) means a year group in which the majority of children will, in the school year, attain the age of 15;
- “year 11” (“*blwyddyn 11*”) means a year group in which the majority of children will, in the school year, attain the age of 16;
- “year group” (“*grŵp blwyddyn*”) means a group of children at a school the majority of whom will, in a particular school year, attain the same age.
- (3) References in this Order to “the old law” are to Chapter 1 of Part 4 of the 1996 Act but excluding—
- (a) section 323;
 - (b) section 329;
 - (c) section 329A.
- (4) References in this Order to “the new law” are to—
- (a) the Act,
 - (b) a regulation or the code made under that Act, and
 - (c) any other provision of, or made under, an act that has effect for the purposes of or in relation to—
 - (i) a provision of the Act or such regulations or code, or
 - (ii) a person to whom the Act or such regulations or code applies.
- (5) For the purposes of this Order an appeal is finally determined if—
- (a) a decision is made by a tribunal or court on the appeal, and
 - (b) if a request may be made to review the decision or it may be further appealed, and the period (or each of the periods) for doing so expires without a review being requested or further appeal being made.

(13) The Education Tribunal for Wales was previously known as the Special Educational Needs Tribunal for Wales. See section 91 of the Additional Learning Needs and Education Tribunal (Wales) Act 2018.

(14) S.I. 2012/322 (W. 53).

Changes to legislation: *There are currently no known outstanding effects for the The Additional Learning Needs and Education Tribunal (Wales) Act 2018 (Commencement No. 14 and Transitional and Saving Provisions) Order 2022, Section 1. (See end of Document for details)*

(6) For the purposes of this Order, a local authority is responsible for a child if he or she is in the area of the authority.

(7) For the purposes of this Order, where a child is—

- (a) a looked after child, the appropriate local authority is the local authority that looks after the child;
- (b) not a looked after child, the appropriate local authority is the local authority responsible for the child.

(8) This Order does not apply to a person in relation to whom provisions of the Act were commenced by the Additional Learning Needs and Education Tribunal (Wales) Act 2018 (Commencement No. 5 and Transitional and Saving Provisions) Order 2021(15) or the Additional Learning Needs and Education Tribunal (Wales) Act 2018 (Commencement No. 6 and Transitional and Saving Provisions) Order 2021(16).

Commencement Information

II Art. 1 in force at made date

(15) S.I. 2021/1243 (W. 315) (C. 68) amended by S.I. 2021/1428 (W. 369) (C. 80).

(16) S.I. 2021/1244 (W. 316) (C. 69) amended by S.I. 2021/1428 (W. 369) (C. 80).

Changes to legislation:

There are currently no known outstanding effects for the The Additional Learning Needs and Education Tribunal (Wales) Act 2018 (Commencement No. 14 and Transitional and Saving Provisions) Order 2022, Section 1.