

Status: This version of this schedule contains provisions that are prospective.
Changes to legislation: Additional Learning Needs and Education Tribunal (Wales) Act 2018, SCHEDULE 1 is up to date with all changes known to be in force on or before 27 November 2019. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

SCHEDULE 1

(introduced by section 96)

MINOR AND CONSEQUENTIAL AMENDMENTS AND REPEALS

PROSPECTIVE

Local Authority Social Services Act 1970 (c. 42)

- 1 In Schedule 1 to the Local Authority Social Services Act 1970 (social services functions), omit the entry for section 322 of the Education Act 1996.

PROSPECTIVE

Children Act 1989 (c. 41)

- 2 (1) The Children Act 1989 is amended as follows.
- (2) In section 23E(1A) (pathway plans)—
- (a) in paragraph (b), omit “Part 4 of the Education Act 1996 or”;
 - (b) after paragraph (b), insert—
“(ba) Part 2 of the Additional Learning Needs and Education Tribunal (Wales) Act 2018;”.
- (3) In section 36 (education supervision orders), at the end, insert—
- “(11) Where, for the purposes of the Additional Learning Needs and Education Tribunal (Wales) Act 2018, a local authority in Wales is responsible for a child or a child is looked after by a local authority in Wales, the reference to special educational needs in subsection (4) is to be interpreted as a reference to additional learning needs (which has the same meaning as in that Act).”

PROSPECTIVE

Tribunals and Inquiries Act 1992 (c. 53)

- 3 In Schedule 1 to the Tribunals and Inquiries Act 1992 (tribunals to which the Act applies), in Part 1, in the table—
- (a) in the first column, for “Special educational” substitute “ Additional learning ”;
 - (b) in the second column, for paragraph 40B substitute “ 40B The Education Tribunal for Wales ”.

Education Act 1996 (c. 56)

PROSPECTIVE

- 4 (1) The Education Act 1996 is amended as follows.

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- (2) In section 7 (duty of parents to secure education of children of compulsory school age), in paragraph (b), after “special educational needs” insert “ (in the case of a child who is in the area of a local authority in England) or additional learning needs (in the case of a child who is in the area of a local authority in Wales) ”.
- (3) In section 14 (functions in respect of provision of primary and secondary schools)—
 - (a) in subsection (4B), for “special educational needs” substitute “ additional learning needs ”;
 - (b) in subsection (6)(b), after “needs” insert “ (in the case of a local authority in England) or the need for securing that additional learning provision is made for pupils who have additional learning needs (in the case of a local authority in Wales) ”.
- (4) In section 15A (powers in respect of education and training), in subsection (3), in paragraph (b), for “learning difficulties (within the meaning of section 41(5) and (6) of the Learning and Skills Act 2000)” substitute “ additional learning needs ”.
- (5) In section 15B (functions in respect of education for persons over 19), in subsection (3), in paragraph (b), for “learning difficulties (within the meaning of section 41(5) and (6) of the Learning and Skills Act 2000)” substitute “ additional learning needs ”.
- (6) In section 18A (provision of education for persons subject to youth detention), in subsection (2)—
 - (a) in paragraph (b), at the beginning, insert “ in the case of a local authority in England, ”;
 - (b) in paragraph (bb), for “any learning difficulties (within the meaning of section 41(5) and (6) of the Learning and Skills Act 2000)” substitute “ any additional learning needs ”.
- (7) In section 19 (exceptional provision of education in pupil referral units or elsewhere), in subsection (6), in the definition of “suitable education”—
 - (a) after “young person” insert “ in the area of a local authority in England ”;
 - (b) after “have” insert “ and in relation to a child or young person in the area of a local authority in Wales, means efficient education suitable to the child's or young person's age, ability and aptitude and to any additional learning needs the child or young person may have ”.
- (8) In section 29 (provision of information by local authorities), after subsection (4) insert—

“(4A) In subsection (4) as it applies in relation to the Welsh Ministers, the reference to special educational needs is to be interpreted as a reference to additional learning needs.”
- (9) Chapter 1 of Part 4 (children in Wales with special educational needs) is repealed.
- (10) In section 337 (special schools)—
 - (a) the current provisions become subsection (1);
 - (b) in subsection (1), after “A school” insert “ in England ”;
 - (c) after subsection (1) insert—

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“(2) A school in Wales is a special school if it is specially organised to make additional learning provision for pupils with additional learning needs and it is maintained by a local authority.”

- (11) Omit section 348 (provision of special education at non-maintained schools).
- (12) In section 349 (variation of trust deeds etc. by order)—
- (a) in subsection (1)—
 - (i) for “appropriate national authority” substitute “ Secretary of State ”;
 - (ii) for “it” substitute “ the Secretary of State ”;
 - (b) omit subsection (1A).
- (13) In section 436A (duty to make arrangements to identify children not receiving education), in subsection (3), after “any special educational needs he may have” insert “ (in the case of a local authority in England) or suitable to the child's age, ability and aptitude and to any additional learning needs the child may have (in the case of a local authority in Wales) ”.
- (14) In section 438 (choice of school: child without plan or statement)—
- (a) in subsection (1), for “a statement under section 324” substitute “ a child for whom an individual development plan is maintained in which a particular school is named ”;
 - (b) in subsection (6), in paragraph (c), for “to any special educational needs he may have” substitute “—
 - (i) (in the case of a local authority in England) any special educational needs the child may have, or
 - (ii) (in the case of a local authority in Wales) any additional learning needs the child may have”;
 - (c) in the heading, for “or statement of special educational needs” substitute “ , or an individual development plan which names a school ”.
- (15) In section 440 (amendment of order at request of parent: child without plan or statement)—
- (a) in subsection (1), for “a statement under section 324” substitute “ a child for whom an individual development plan is maintained in which a particular school is named ”;
 - (b) in subsection (4), in paragraph (b), for “to any special educational needs he may have” substitute “—
 - (i) (in the case of a local authority in England) any special educational needs the child may have, or
 - (ii) (in the case of a local authority in Wales) any additional learning needs the child may have”;
 - (c) in the heading, for “or statement of special educational needs” substitute “ , or an individual development plan which names a school ”.
- (16) In section 441 (choice of school: child with plan or statement)—
- (a) in subsection (1)—
 - (i) after “where a local authority” insert “ in England ”;
 - (ii) omit “(in the case of a local authority in England) or a statement under section 324 (in the case of a local authority in Wales)”;
 - (b) in subsection (2), omit “or statement”;

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- (c) in subsection (3)—
 - (i) in the opening words, omit “or statement”;
 - (ii) in paragraph (a), omit “or the statement”;
- (d) omit subsection (3A);
- (e) in subsection (4)—
 - (i) in paragraph (a), omit “or a statement under section 324”;
 - (ii) in paragraph (b), omit “or statement”;
- (f) in the heading, omit “or statement of special educational needs”.

(17) After section 441 insert—

Choice of school: child with individual development plan which names a school

“441A Choice of school: child with individual development plan which names a school

- (1) Where a local authority in Wales are required by virtue of section 437(3) to serve a school attendance order in respect of a child for whom an individual development plan is maintained in which a particular school is named, that school must be named in the order.
- (2) Where—
 - (a) a school attendance order is in force in respect of a child for whom an individual development plan is maintained in which a particular school is named, and
 - (b) the name of the school specified in the plan is changed,
 the local authority must amend the order accordingly.
- (3) Where—
 - (a) a school attendance order is in force in respect of a child for whom no individual development plan is maintained in which a particular school is named, and
 - (b) an individual development plan in which a particular school is named begins to be maintained for the child,
 the local authority must amend the order accordingly.”

(18) In section 442 (revocation of order at request of parent)—

- (a) in subsection (5)—
 - (i) in the opening words, omit “or a statement under section 324 (in the case of a local authority in Wales)”;
 - (ii) in paragraph (a), omit “or the statement”;
 - (iii) in paragraph (b), omit “or the statement”;
- (b) after subsection (5) insert—
 - “(6) Where, in the case of a local authority in Wales, the child in question is one for whom an individual development plan is maintained by the authority or by another local authority—
 - (a) subsections (2) to (4) do not apply if a school or other institution is named in the individual development plan, and

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(b) in any other case a direction under subsection (4) may require the authority maintaining the individual development plan to make such amendments to the plan as is considered necessary or expedient in consequence of the determination.”

(19) In section 458 (charges for board and lodging at boarding schools)—

- (a) in subsection (1), after “(5)” insert “ and section 49 of the Additional Learning Needs and Education Tribunal (Wales) Act 2018 ”;
- (b) at the end, insert—

“(6) In its application to a local authority in Wales, references in this section to special educational needs are to be interpreted as references to additional learning needs.”

(20) In section 463 (meaning of “independent school”), in subsection (1), in paragraph (b), for “is maintained or for whom a statement is maintained under section 324” substitute “ or an individual development plan is maintained ”.

(21) In section 483A (city colleges and academies: special educational needs)—

- (a) in subsection (1), omit “if the condition in subsection (3) is satisfied”;
- (b) in subsection (2), in paragraph (a), for “or a statement under section 324 is maintained” substitute “ is maintained by a local authority in England, or for whom an individual development plan is maintained by a local authority in Wales ”;
- (c) omit subsection (3);
- (d) in subsection (4)—
 - (i) in paragraph (a), for “the plan or the statement” substitute “ the EHC plan, or for making the additional learning provision specified in the individual development plan (as the case may be) ”;
 - (ii) in paragraph (b), for “the plan or the statement” substitute “ the EHC plan or the individual development plan ”;
- (e) in the heading, after “needs” insert “ and additional learning needs ”.

(22) In section 510 (provision of clothing), in subsection (2), after “special educational provision” insert “ or additional learning provision (as the case may be) ”.

(23) In section 514 (provision of board and lodging otherwise than at a school)—

- (a) in subsection (2), after “local authority” insert “ in England ”;
- (b) at the end, insert—

“(8) In its application to a local authority in Wales, references in this section to special educational needs are to be interpreted as references to additional learning needs.”

(24) In section 517 (payment of fees at schools not maintained by a local authority)—

- (a) in subsection (1), omit “, Part 4 (special educational needs)”;
- (b) in subsection (6), omit paragraph (e);
- (c) at the end, insert—

“(8) In this section as it applies where a local authority in Wales makes arrangements under section 18 for primary or secondary education

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to be provided for a pupil at a school not maintained by a local authority—

- (a) references to special educational needs are to be interpreted as references to additional learning needs, and
- (b) references to special educational provision are to be interpreted as references to additional learning provision.

(9) Subsection (5) does not apply where board and lodging is secured for a pupil under Part 2 of the Additional Learning Needs and Education Tribunal (Wales) Act 2018.”

- (25) Omit section 562C (detained person with statement of special educational needs).
- (26) Omit section 562D (appropriate special educational provision: arrangements between local authorities).
- (27) In section 562F (provision of information about detained persons), omit subsections (5) and (6).
- (28) Omit section 562G (information about detained person to be provided where statement of special educational needs previously maintained).
- (29) Omit section 562H (release of detained person appearing to host authority to require assessment).
- (30) In section 569 (regulations)—
 - (a) in subsection (2B)—
 - (i) omit “332ZC, 332AA, 332BA, 332BB, 336,”;
 - (ii) for “or 444B” substitute “ , 444B or (unless subsection (2BA) applies) Chapter 5A ”;
 - (b) after subsection (2B), insert—
 - “(2BA) A statutory instrument which contains (whether alone or with other provision) regulations made by the Welsh Ministers under both section 562J(4) and section 39(2) of the Additional Learning Needs and Education Tribunal (Wales) Act 2018 may not be made unless a draft of the instrument has been laid before, and approved by resolution of, the National Assembly for Wales.
 - (2BB) A statutory instrument which contains (whether alone or with other provision) regulations under section 579(3C) may not be made unless a draft of the instrument has been laid before, and approved by resolution of, the National Assembly for Wales.”;
 - (c) omit subsections (5) and (6).
- (31) Omit section 569A (regulations made by the Welsh Ministers under Chapter 5A).
- (32) In section 579 (general interpretation)—
 - (a) in subsection (1)—
 - (i) in the definition of “special educational needs”, omit paragraph (b);
 - (ii) in the definition of “special educational provision”, omit paragraph (b);
 - (iii) insert the following definitions at the appropriate places—

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““additional learning needs” has the meaning given by section 2 of the Additional Learning Needs and Education Tribunal (Wales) Act 2018;”;

““additional learning provision” has the meaning given by section 3 of the Additional Learning Needs and Education Tribunal (Wales) Act 2018;”;

““individual development plan” means a plan within Part 2 of the Additional Learning Needs and Education Tribunal (Wales) Act 2018;”;

(b) omit subsection (1A).

(33) In section 580 (index)—

(a) insert the following entries in the appropriate places—

“additional learning needs	section 579(1)”;
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“additional learning provision	section 579(1)”;
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“individual development plan	section 579(1)”;
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(b) omit the following entries—

“the appropriate national authority (in Chapter 2 of Part 4)	section 337A”;
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“the chairmen's panel (in Part IV)	section 333(2)”;
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“child for whom a local authority are responsible (in Part IV)	section 321(3)”;
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“the lay panel (in Part IV)	section 333(2)”;
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“learning difficulty (in relation to a child in the area of a local authority in Wales)	section 312(2) and (3) (subject to subsection (3A))”;
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“the President (in Part IV)	section 333(2)”;
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“responsible for a child (in Part IV in relation to a local authority)	section 321(3)”;
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“subject to learning difficulty assessment	section 579(1)”;
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“the Tribunal (in Part IV) (in Chapter 1 of Part 4)	section 313(5)”;
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- (c) in the entries for “Child”, omit the entry for “(in Part IV)”;
 - (d) in the entry for “grant maintained special school”, for “sections 337(4) and” substitute “ section ”;
 - (e) in the entries for “incorporation date”, omit the entry for “(in Part IV)”;
 - (f) in the entries for “maintained school”, omit the entry for “(in Part IV)”;
 - (g) in the entry for “maintained special school”, for “, 33(1) and 337(3)” substitute “ and 33(1) ”.
- (34) In Schedule 36A (education functions), in paragraph 2, in the entry for the Learning and Skills Act 2000, omit the entry for section 140(5).

- 5 In section 333(5) of the Education Act 1996—
- (a) before the paragraphs, omit “with the agreement of the Secretary of State”;
 - (b) in paragraph (b), omit “, with the agreement of the Secretary of State,”.

PROSPECTIVE

- 6 In consequence of the amendments made by paragraphs 4 and 5—
- (a) in Schedule 7 to the Education Act 1997 (c. 44) (minor and consequential amendments), omit paragraphs 23 and 24;
 - (b) in Schedule 30 to the School Standards and Framework Act 1998 (c. 31) (minor and consequential amendments), omit paragraphs 71 to 79, 81, 84 and 186;
 - (c) in the Special Educational Needs and Disability Act 2001 (c. 10)—
 - (i) Part 1 (special educational needs) is repealed;
 - (ii) in Part 1 of Schedule 8 (minor and consequential amendments: the 1996 Act), omit paragraphs 3, 6 to 11, 13, 14 and 15(3);
 - (d) in the Education Act 2002 (c. 32)—
 - (i) omit section 173 (right of access of local authority);
 - (ii) omit section 194(2) (local authorities' powers to make regional provision);
 - (iii) in Part 2 of Schedule 7 (Academies: supplementary), omit paragraph 6(3);
 - (iv) in Schedule 18 (Special Educational Needs Tribunal for Wales) omit paragraphs 1 to 3, 6, 15, 17 (and the cross-heading that precedes it) and 18;
 - (v) in Schedule 18, in paragraph 13, for “Special Educational Needs Tribunal for Wales under section 333(2) of the Education Act 1996 (c 56)” substitute “ Education Tribunal for Wales under section 91(5) of the Additional Learning Needs and Education Tribunal (Wales) Act 2018 ”;
 - (vi) in Schedule 21 (minor and consequential amendments) omit paragraphs 36 to 44 and 58;
 - (e) in Schedule 4 to the Health and Social Care (Community Health and Standards Act 2003 (c. 43) (amendments relating to NHS foundation trusts), omit paragraph 104 (and the cross-heading which precedes it) and paragraph 105;
 - (f) in Part 1 of Schedule 4 to the Constitutional Reform Act 2005 (c. 4), omit paragraph 259;

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- (g) in Part 1 of Schedule 10 to the Tribunals, Courts and Enforcement Act 2007 (c. 15) (amendments relating to judicial appointments), omit paragraph 28;
- (h) in Schedule 18 to the Education Act 2005 (c. 18) (miscellaneous amendments), omit paragraph 2;
- (i) in Schedule 2 to the Childcare Act 2006 (c. 21) (minor and consequential amendments), omit paragraph 22;
- (j) in the Education and Inspections Act 2006 (c. 40)—
 - (i) omit section 173 (special educational needs co-ordinators);
 - (ii) omit section 174 (time limits relating to statements of special educational needs);
- (k) in Schedule 1 to the National Health Service (Consequential Provisions) Act 2006 (c. 43) (consequential amendments), omit paragraph 182;
- (l) in the Education and Skills Act 2008 (c. 25)—
 - (i) in section 147 (approval of independent schools: consequential amendments), in subsection (2) omit paragraphs (a) and (b), and omit subsection (3);
 - (ii) in Schedule 1 (amendments), omit paragraphs 7 and 10;
 - (iii) in Schedule 1 (amendments), in paragraph 11, omit the following entry—

“the appropriate national authority section 337A”;
(in Chapter 2 of Part 4)

- (m) in the Education (Wales) Measure 2009 (nawm 7)—
 - (i) omit sections 1 to 7 (special education needs appeals);
 - (ii) in the Schedule (minor and consequential amendments) omit paragraph 1 (and the heading which precedes it), and paragraphs 2 to 5;
- (n) in the Apprenticeships, Skills, Children and Learning Act 2009 (c. 22)—
 - (i) omit section 52 (release from detention of child or young person with special educational needs);
 - (ii) in Schedule 2 (local authority functions: minor and consequential amendments), omit paragraphs 6 and 11;
- (o) in Schedule 26 to the Equality Act 2010 (c. 15) (amendments), omit paragraphs 36 and 37;
- (p) in Schedule 13 to the Education Act 2011 (consequential amendments), in paragraph 9, omit sub-paragraphs (4) and (5);
- (q) in Schedule 5 to the Health and Social Care Act 2012 (c. 7) (amendments), omit paragraphs 78 and 79;
- (r) in Part 3 of Schedule 9 to the Crime and Courts Act 2013 (c. 22) (single county court: amendments), in paragraph 52(2) omit the entry for the Education Act 1996;
- (s) in Schedule 3 to the Children and Families Act 2014 (c. 6) (consequential amendments), omit paragraphs 9 to 35 and paragraphs 38, 41(2)(b) (and the “and” which precedes it), 42(d) (and accordingly place the “and” which precedes it after sub-paragraph (b)), 44(3) and (4), 55 to 58, 59(c) and 60(c) and (g);
- (t) omit paragraph 5.

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PROSPECTIVE

School Standards and Framework Act 1998 (c. 31)

- 7 (1) The School Standards and Framework Act 1998 is amended as follows.
- (2) In section 96(7) (direction to admit child to specified school), for “to any special educational needs” substitute “ (in the case of a local authority in England) to any special educational needs or (in the case of a local authority in Wales) to any additional learning needs ”.
- (3) In section 98(7) (admission for nursery education or to nursery or special school: children with statements of special educational needs or EHC plans), for “statements of special educational needs are maintained under section 324 of the Education Act 1996” substitute “ individual development plans are maintained under Part 2 of the Additional Learning Needs and Education Tribunal (Wales) Act 2018 in respect of which section 48 of that Act applies (duty to admit children to maintained schools) ”.
- (4) In section 123 (nursery education - children with special educational needs)—
- (a) in subsection (1)(a), after “authority” insert “ in England ”;
 - (b) in the words after subsection (1)(b), omit “or section 313(2) of the Education Act (in the case of education in Wales)”;
 - (c) in subsection (2), omit “or (as the case may be) Part IV of the Education Act 1996”;
 - (d) in subsection (3)(a), omit “or (as the case may be) Part IV of the Education Act”;
 - (e) in subsection (3A)(b), omit “or statement under section 324 of the Education Act”;
 - (f) in subsection (4), omit paragraph (b).

PROSPECTIVE

Learning and Skills Act 2000 (c. 21)

- 8 (1) The Learning and Skills Act 2000 is amended as follows.
- (2) In section 33N (the local curriculum: interpretation), in the definition of “institution”, for “a learning difficulty” to the end substitute “ additional learning needs (within the meaning given by the Additional Learning Needs and Education Tribunal (Wales) Act 2018); ”.
- (3) In section 33P (application of local curriculum provisions to students who are registered pupils of special schools or who have learning difficulties)—
- (a) in the heading, for “learning difficulties” substitute “ additional learning needs ”;
 - (b) in subsection (3)(b)(ii), for “a learning difficulty” substitute “ additional learning needs ”.

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PROSPECTIVE

Education Act 2002 (c. 32)

- 9 (1) The Education Act 2002 is amended as follows.
- (2) In section 153(2) (funded nursery education), after paragraph (a) insert—
- “(ab) must make provision in the arrangements requiring the provider of the nursery education to have regard to any relevant guidance included in the code on additional learning needs issued under section 4 of the Additional Learning Needs and Education Tribunal (Wales) Act 2018, and”.
- (3) Omit section 174 (consent to placement).

PROSPECTIVE

Constitutional Reform Act 2005 (c. 4)

- 10 In paragraph 4 of Schedule 7 to the Constitutional Reform Act 2005 (protected functions of the Lord Chancellor)—
- (a) omit the entry for section 333(3) of the Education Act 1996 (c. 56);
- (b) insert the following entry in the appropriate place— “ *Additional Learning Needs and Education Tribunal (Wales) Act 2018* Section 91(3) and (4) ”.

PROSPECTIVE

National Health Service Act 2006 (c. 41)

- 11 In Schedule 1 to the National Health Service Act 2006 (further provision about the Secretary of State and services), in paragraph 2(1)(b)—
- (a) omit “or 319”;
- (b) after “the Education Act 1996 (c. 56)” insert “ or section 53 of the Additional Learning Needs and Education Tribunal (Wales) Act 2018 ”.

PROSPECTIVE

National Health Service (Wales) Act 2006 (c. 42)

- 12 In Schedule 1 to the National Health Service (Wales) Act 2006 (further provision about the Welsh Ministers and services), in paragraph 2(1)(b)—
- (a) omit “or 319”;
- (b) after “the Education Act 1996 (c 56)” insert “ section 53 of the Additional Learning Needs and Education Tribunal (Wales) Act 2018 or section 61 of the Children and Families Act 2014 (c. 6) ”.

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PROSPECTIVE

Tribunals, Courts and Enforcement Act 2007 (c. 15)

- 13 In Part 7 of Schedule 6 to the Tribunals, Courts and Enforcement Act 2007 (tribunals for the purposes of section 32(3)), omit the entry for the Special Educational Needs Tribunal for Wales.

PROSPECTIVE

Learner Travel (Wales) Measure 2008 (nawm 2)

- 14 (1) The Learner Travel (Wales) Measure 2008 is amended as follows.
- (2) In section 1 (main terms used in the Measure), in subsection (4)—
- (a) in paragraph (c), for “statements maintained under section 324 of the Education Act 1996 (c.56)” substitute “ individual development plans maintained under section 14 or 19 of the Additional Learning Needs and Education Tribunal (Wales) Act 2018 ”;
 - (b) for paragraph (h) substitute—
 - “(h) independent special post-16 institutions within the meaning given by section 56 of the Additional Learning Needs and Education Tribunal (Wales) Act 2018 which are named in individual development plans maintained under section 14 or 19 of that Act;”.
- (3) In section 3 (local authority duty to make transport arrangements), in the table—
- (a) in the first column—
 - (i) for “named in a statement maintained for the child under section 324 of the Education Act 1996” the first and second time it appears substitute “ or other institution named in an individual development plan maintained for the child under section 14 of the Additional Learning Needs and Education Tribunal (Wales) Act 2018 ”;
 - (ii) for “named in a statement maintained for the child under section 324 of the Education Act 1996” the third and fourth time it appears substitute “ or other institution named in an individual development plan maintained for the child under section 19 of the Additional Learning Needs and Education Tribunal (Wales) Act 2018 ”;
 - (b) in the second column for “named in a statement maintained for the child under section 324 of the Education Act 1996” the first and second time it appears substitute “ or other institution named in an individual development plan maintained for the child under section 14 of the Additional Learning Needs and Education Tribunal (Wales) Act 2018 ”.
- (4) In section 14 (enforcement of travel behaviour code: withdrawal of travel arrangements), in subsection (11), in paragraph (b)(ii) for “special educational needs” substitute “ learning difficulty ”.

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PROSPECTIVE

Education and Skills Act 2008 (c.25)

- 15 (1) The Education and Skills Act 2008 is amended as follows.
- (2) Omit section 143(3) (religious education and worship in non-maintained special schools).
 - (3) Omit section 146 (abolition of requirement of approval for independent schools: England).
 - (4) Omit section 148 (approval of independent schools: transitional provision).
 - (5) In Schedule 1 (minor and consequential amendments), omit paragraphs 75 (and the heading that precedes it) and 77.

PROSPECTIVE

Learning and Skills (Wales) Measure 2009 (nawm 2)

- 16 In the Schedule to the Learning and Skills (Wales) Measure 2009 (minor and consequential amendments), omit paragraph 10.

PROSPECTIVE

Apprenticeships, Skills, Children and Learning Act 2009 (c. 22)

- 17 In section 129 of the Apprenticeships, Skills, Children and Learning Act 2009 (general duties of Ofqual), in subsection (2)—
- (a) in paragraph (b), after “special educational needs” insert “ or additional learning needs ”;
 - (b) in paragraph (c), after “special educational needs” insert “ or additional learning needs ”.

PROSPECTIVE

Education (Wales) Measure 2009 (nawm 7)

- 18 (1) The Education (Wales) Measure 2009 is amended as follows.
- (2) Omit sections 17 to 19 (piloting of provisions about appeals and claims by a child).
 - (3) In section 24 (orders and regulations)—
 - (a) omit subsection (3);
 - (b) in subsection (4) omit “18 or”.
 - (4) Omit section 25 (orders under section 18: procedure).

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PROSPECTIVE

Equality Act 2010 (c. 15)

- 19 (1) The Equality Act 2010 is amended as follows.
- (2) In section 116(1)(b) (education cases), for “Special Educational Needs Tribunal for Wales” substitute “ Education Tribunal for Wales ”.
- (3) In section 136(6)(e) (burden of proof), for “Special Educational Needs Tribunal for Wales” substitute “ Education Tribunal for Wales ”.
- (4) In section 209(3) (orders and regulations made by the Welsh Ministers), after paragraph (d) insert—
- “(e) regulations under paragraph 6, 6A or 6F of Schedule 17 (tribunal procedure, case friends and capacity of parents and persons over compulsory school age).”
- (5) In Schedule 17 (disabled pupils: enforcement)—
- (a) in paragraph 1—
- (i) in paragraph (b) of the definition of “Tribunal”, for “Special Educational Needs Tribunal for Wales” substitute “ Education Tribunal for Wales ”;
- (ii) in the definition of “Welsh Tribunal”, for “Special Educational Needs Tribunal for Wales” substitute “ Education Tribunal for Wales ”.
- (b) in the heading of paragraph 3, omit “and Wales”;
- (c) in paragraph 3—
- (i) after “responsible body” insert “ in England ”;
- (ii) omit paragraph (b);
- (d) in paragraph 3A—
- (i) in sub-paragraph (1), for “that person (“the relevant person”)” substitute—
- “(a) the person (including a child not over compulsory school age), or
- (b) if the person is a child not over compulsory school age, the person's parent”;
- (ii) omit sub-paragraph (3);
- (iii) in sub-paragraph (4), for “6A” insert “ 6A(7) ”;
- (e) in paragraph 6—
- (i) in sub-paragraph (2)(a), omit “3 or”;
- (ii) in sub-paragraph (7), for “Part 4 of the Education Act 1996 (special educational needs)” substitute “ Part 2 of the Additional Learning Needs and Education Tribunal (Wales) Act 2018 ”;
- (f) after paragraph 6 insert—

“Appeals from the Welsh Tribunal

6AA(1) A party to any proceedings on a claim under paragraph (3A) before the Welsh Tribunal may appeal to the Upper Tribunal on any point

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of law arising from a decision made by the Welsh Tribunal in those proceedings.

- (2) An appeal may be brought under sub-paragraph (1) only if, on an application made by the party concerned, the Welsh Tribunal or the Upper Tribunal has given its permission.
 - (3) Section 12 of the Tribunals, Courts and Enforcement Act 2007 (c. 15) (proceedings on appeal to the Upper Tribunal) applies in relation to appeals to the Upper Tribunal under this paragraph as it applies in relation to appeals to it under section 11 of that Act, but as if references to the First-tier Tribunal were references to the Welsh Tribunal.”
- (g) for paragraph 6A substitute—
- “6A (1) This paragraph applies to a child not over compulsory school age who—
- (a) has the right to make a claim under paragraph 3A, and
 - (b) lacks the capacity to understand what it means to exercise that right.
- (2) The Education Tribunal for Wales may by order—
- (a) appoint a person to be a case friend for a child to whom this section applies, or
 - (b) remove the person from being a case friend for the child, on the application of any person or on its own initiative, subject to provision in regulations under sub-paragraph (7).
- (3) A case friend appointed for a child under this paragraph may—
- (a) represent and support the child, and
 - (b) take decisions and act on behalf of the child,
- in respect of matters arising under or by virtue of this Schedule, subject to provision in regulations under sub-paragraph (7).
- (4) Where a person is appointed to be a case friend by order of the Tribunal under this paragraph, the right of a child to make a claim under paragraph 3A is to be exercised by the case friend on behalf of the child.
- (5) A case friend appointed under this paragraph must—
- (a) act fairly and competently,
 - (b) not have any interest adverse to that of the child,
 - (c) ensure that all steps and decisions taken by the case friend are for the benefit of the child, and
 - (d) take account of the child's views, so far as possible.
- (6) In deciding whether to appoint a person to be a case friend, or to remove a person from being a case friend, the Tribunal must have regard, in particular, to whether the person is likely to comply (in the case of appointment) or has complied (in the case of removal) with the duty in sub-paragraph (5).
- (7) The Welsh Ministers may by regulations make further provision about case friends, including (among other things) provision—

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- (a) conferring functions on the Education Tribunal for Wales;
- (b) conferring functions on case friends;
- (c) for procedures in relation to case friends;
- (d) specifying the circumstances in which a person may or may not act as a case friend;
- (e) specifying the circumstances in which a child must have a case friend;
- (f) specifying requirements in respect of the conduct of case friends;
- (g) applying any enactment with or without modifications for the purpose of enabling a case friend to make decisions or act on behalf of a child in respect of matters arising under or by virtue of this Schedule.”;
- (h) after paragraph 6E insert—

“Capacity of parents and persons over compulsory school age - Wales

- 6F (1) The Welsh Ministers must make regulations for the purpose of a claim that a responsible body for a school in Wales has contravened Chapter 1 of Part 6 in relation to a person because of disability in a case to which sub-paragraph (2) or (3) applies.
- (2) This sub-paragraph applies where the person is a child not over compulsory school age and the parent of the person lacks capacity at the relevant time.
- (3) This sub-paragraph applies where the person is over compulsory school age and lacks capacity at the relevant time.
- (4) Regulations under sub-paragraph (1) may include provision applying any enactment with modifications, including (for example) provision for modifications to have effect despite section 27(1)(g) of the Mental Capacity Act 2005 (c. 9) (which does not permit decisions on discharging parental responsibilities in matters not relating to a child's property to be made on a person's behalf).
- (5) In this paragraph “the relevant time” means the time at which, under this Act, something is required or permitted to be done by or in relation to a parent or a person over compulsory school age.
- (6) The reference in this paragraph to lacking capacity is to lacking capacity within the meaning of the Mental Capacity Act 2005.
- (7) “Representative”, in relation to a parent or a person over compulsory school age, means—
- (a) a deputy appointed by the Court of Protection under section 16(2)(b) of the Mental Capacity Act 2005 to make decisions on the parent's or person's behalf in relation to matters within this Schedule;
 - (b) the donee of a lasting power of attorney (within the meaning of section 9 of that Act) appointed by the parent or person to make decisions on his or her behalf in relation to matters within this Schedule;

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- (c) an attorney in whom an enduring power of attorney (within the meaning of Schedule 4 to that Act) created by the parent or person is vested, where the power of attorney is registered in accordance with paragraphs 4 and 13 of that Schedule or an application for registration of the power of attorney has been made.”

- (6) In consequence of the amendments made by sub-paragraph (5)(d), in the Education (Wales) Measure 2009 (nawm 7), omit section 12.

PROSPECTIVE

Welsh Language (Wales) Measure 2011 (nawm 1)

- 20 In Schedule 6 to the Welsh Language (Wales) Measure 2011 (public bodies etc.: standards), in the table, in column 1, for “The Special Educational Needs Tribunal for Wales (“*Tribiwnlys Anghenion Addysgol Arbennig Cymru*”)” substitute “ The Education Tribunal for Wales (“*Tribiwnlys Addysg Cymru*”)”.

PROSPECTIVE

Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10)

- 21 (1) The Legal Aid, Sentencing and Punishment of Offenders Act 2012 is amended as follows.
- (2) In Schedule 1 (civil legal services)—
 - (a) in Part 1, in paragraph 2—
 - (i) in sub-paragraph (1)(a), for “Part 4 of the Education Act 1996” substitute “ Part 2 of the Additional Learning Needs and Education Tribunal (Wales) Act 2018 ”;
 - (ii) omit sub-paragraph (1)(b);
 - (b) in Part 3, in paragraph 17—
 - (i) for “Special Educational Needs” substitute “ Education ”;
 - (ii) for sub-paragraph (a) substitute—
 - “(a) Part 2 of the Additional Learning Needs and Education Tribunal (Wales) Act 2018,”.

PROSPECTIVE

School Standards and Organisation (Wales) Act 2013 (anaw 1)

- 22 (1) The School Standards and Organisation (Wales) Act 2013 is amended as follows.
- (2) In section 1(10) (overview) for “special educational” substitute “ additional learning ”.
- (3) In Part 3, in Chapter 4 (regional provision for special educational needs)—

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- (a) in the chapter title, for “SPECIAL EDUCATIONAL” substitute “ADDITIONAL LEARNING”;
 - (b) in section 64 (meaning of “regional provision” and “special education functions”)—
 - (i) in the section heading, for “special education” substitute “additional learning needs”;
 - (ii) for the definition of “special education functions” substitute—
 - ““additional learning needs functions” (“*swyddogaethau anghenion dysgu ychwanegol*”) means functions under Part 2 of the Additional Learning Needs and Education Tribunal (Wales) Act 2018.”;
 - (c) in section 65(1) (direction to consider making regional provision)—
 - (i) for “special education functions” substitute “additional learning needs functions”;
 - (ii) for “special educational needs” substitute “additional learning needs”.
 - (d) in section 66(1) (directions to make proposals to secure regional provision), for “special education” substitute “additional learning needs”.
- (4) In section 74(5) (form of implementation), in paragraph (d) for “a statement of special educational needs under Part 4 of the Education Act 1996” substitute “an individual development plan under Part 2 of the Additional Learning Needs and Education Tribunal (Wales) Act 2018”.
- (5) In section 98(3) (general interpretation and index of defined expressions), for “special education functions” (“*swyddogaethau addysg arbennig*”) substitute “additional learning needs functions” (“*swyddogaethau anghenion dysgu ychwanegol*”).
- (6) In Schedule 2 (regulated alterations)—
- (a) in paragraph 15—
 - (i) in the heading, for “Special educational” substitute “Additional learning”;
 - (ii) in sub-paragraph (1), for “special educational” substitute “additional learning”;
 - (iii) in sub-paragraph (2), for “special educational” substitute “additional learning”;
 - (b) in paragraph 21—
 - (i) in the heading, for “Special educational” substitute “Additional learning”;
 - (ii) for “special educational” substitute “additional learning”;
 - (c) in paragraph 23(3), in paragraph (a), for “assessed under section 323 of the Education Act 1996 and pupils with statements of special educational needs maintained under section 324 of that Act” substitute “determined under Part 2 of the Additional Learning Needs and Education Tribunal (Wales) Act 2018 and pupils with individual development plans maintained under that Act”;
 - (d) in paragraph 24—
 - (i) in the heading, for “Special educational” substitute “Additional learning”;

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- (ii) in sub-paragraph (1), for “special educational” substitute “additional learning”;
- (iii) in sub-paragraph (2), for “special educational” substitute “additional learning”.

PROSPECTIVE

Children and Families Act 2014 (c. 6)

- 23 (1) The Children and Families Act 2014 is amended as follows.
- (2) In section 35(1) (children with SEN in maintained nurseries and mainstream schools), after “mainstream school” insert “ in England ”.
 - (3) In section 43(1) (schools and other institutions named in EHC plan: duty to admit)—
 - (a) in paragraph (a), after “school” insert “ in England ”;
 - (b) in paragraph (b), after “school” insert “ in England ”;
 - (c) in paragraph (e), after “school” insert “ in England ”.
 - (4) Omit section 81 (disapplication of Chapter 1 of Part 4 of the Education Act 1996 in relation to children in England).
 - (5) In section 83(6) (interpretation of Part 3), 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 child or young person under Part 2 of the Additional Learning Needs and Education Tribunal (Wales) Act 2018 ”.
 - (6) In Schedule 3 (consequential amendments), omit paragraph 73.

PROSPECTIVE

Social Services and Well-being (Wales) Act 2014 (anaw 4)

- 24 (1) The Social Services and Well-being (Wales) Act 2014 is amended as follows.
- (2) In section 3 (meaning of “child” etc.), in subsection (3), after “ “child”” insert “ (except in section 83(2C)) ”.
 - (3) In section 182 (provision of advocacy services: restrictions), in subsection (1)(d), for “332BB of the Education Act 1996” substitute “ 69 of the Additional Learning Needs and Education Tribunal (Wales) Act 2018 ”.
 - (4) In section 196 (orders and regulations), in subsection (6), after paragraph (c) insert—
“(ca) the first regulations made under section 83(2B);”.
 - (5) In section 197 (general interpretation and index), in the definition of “child”, after “(“plenty”)” insert “ , except in section 83(2C), ”.
 - (6) In Schedule 2 (social services functions), in table 1—
 - (a) omit the entry for the Education Act 1996 (section 322 of that Act);
 - (b) insert the following entry at the appropriate place—

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“Children and Families Act 2014

The duty to comply with a request under section 31, but only in respect of requests to exercise social services functions.

Duty to comply with a request for co-operation by a local authority in England for the purpose of exercise of functions under Part 3 of the Children and Families Act 2014.”

(c) insert the following entry at the appropriate place—

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

The duty to comply with a request under section 65, but only in respect of requests to exercise social services functions.

Duty to exercise functions to provide information or other help on request by a local authority for the purpose of exercise of functions by the authority under Part 2 of the Additional Learning Needs and Education Tribunal (Wales) Act 2018”

Status:

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Changes to legislation:

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Changes and effects yet to be applied to :

- Sch. 1 para. 5 omitted by [2018 anaw 2 Sch. 1 para. 6\(t\)](#)

Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

- Act restricted by 1996 (c. 56), s. 569(2BA) (as inserted) by [2018 anaw 2 Sch. 1 para. 4\(30\)\(b\)](#)