Additional Learning Needs and Education Tribunal (Wales) Act 2018

2018 anaw 2

PART 2

ADDITIONAL LEARNING NEEDS

CHAPTER 2

INDIVIDUAL DEVELOPMENT PLANS

Additional learning provision for detained persons

44 Certain provisions of Part 2 not to apply to children and young persons in detention

(1) The duties imposed by the provisions in subsection (2) on the following bodies cease to apply in relation to a detained person from the beginning of that person's detention—

(a) the governing body of a maintained school;

(b) the governing body of an institution in the further education sector;

(c) a local authority.

[[F1](d) an NHS body.**]**

(2) The provisions are—

(a) section 11 (governing body's duty to decide);

(b) section 12 (governing body's duty to prepare and maintain a plan);

(c) section 13 (local authority's duty to decide);

(d) section 14 (local authority's duty to prepare and maintain a plan);

[[F2](da) section 20(5)(a) and (c) (NHS body’s duty to secure a treatment or service and to take all reasonable steps to secure it in Welsh);**]**

(e) section 26 (local authority's duty to reconsider governing body's decision);

Status: *Point in time view as at 01/01/2022. This version of this provision has been superseded.*
Changes to legislation: *Additional Learning Needs and Education Tribunal (Wales) Act 2018, Section 44 is up to date with all changes known to be in force on or before 07 August 2024. 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)*

(f) section 30(2) (governing body's duty to refer where child or young person registered or enrolled at more than one institution);

(g) section 47(2) (governing body's duty to take all reasonable steps to secure additional learning provision).

(3) The duties imposed by the provisions in subsection (4) on the governing body of a maintained school or on the governing body of an institution in the further education sector do not apply in relation to a child or young person at any time while that child or young person is—

(a) subject to a detention order (within the meaning given by section 562(1A)(a), (2) and (3) of the Education Act 1996), and

(b) detained in accommodation other than relevant youth accommodation in Wales or England.

(4) The provisions are—

(a) section 11 (duty to decide);

(b) section 12 (duty to prepare and maintain a plan);

(c) section 17 (duty to refer a matter to a local authority that looks after a child);

(d) section 30(2) (duty to refer where child or young person registered or enrolled at more than one institution);

(e) section 47(2) (duty to take all reasonable steps to secure additional learning provision).

(5) Subsection (6) applies until section 49 of the Apprenticeships, Skills, Children and Learning Act 2009 (c. 22) (application of provisions to persons detained in relevant youth accommodation) comes fully into force in relation to Wales.

(6) Section 562 of the Education Act 1996 (c. 56) is to have effect for the purpose of the powers and duties conferred or imposed by or under this Part on local authorities as though section 49 of the Apprenticeships, Skills, Children and Learning Act 2009 (c. 22) were fully in force in relation to Wales.

(7) For the purposes of this Part, the reference in subsection (1) of section 562 of the Education Act 1996 (c. 56) to relevant youth accommodation is to have effect as though it were a reference to relevant youth accommodation in Wales or England.

Textual Amendments

F1 S. 44(1)(d) inserted (1.9.2021) by The Additional Learning Needs (Wales) Regulations 2021 (S.I. 2021/401), regs. 1(2), **19(1)(a)**

F2 S. 44(2)(da) inserted (1.9.2021) by The Additional Learning Needs (Wales) Regulations 2021 (S.I. 2021/401), regs. 1(2), **19(1)(b)**

Commencement Information

I1 S. 44 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))

I2 S. 44 in force at 1.9.2021 for specified purposes by S.I. 2021/373, **art. 5**

I3 S. 44 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))

I4 S. 44 in force at 1.1.2022 for specified purposes by S.I. 2021/1245, **arts. 3(e)**, 4 (with art. 1(4))

I5 S. 44 in force at 1.1.2022 for specified purposes by S.I. 2021/1243, **art. 3(e)** (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**)

Status: *Point in time view as at 01/01/2022. This version of this provision has been superseded.*
Changes to legislation: *Additional Learning Needs and Education Tribunal (Wales) Act 2018, Section 44 is up to date with all changes known to be in force on or before 07 August 2024. 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)*

I6 S. 44 in force at 1.1.2022 for specified purposes by S.I. 2021/1244, **art. 3(e)** (with arts. 4-21) (as amended by S.I. 2021/1428, **art. 3**; and (10.6.2022) by S.I. 2022/663, **art. 3**; and (21.8.2023) by S.I. 2023/932, **art. 3**)

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