



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

2018 anaw 2

## PART 2 **E+W**

### ADDITIONAL LEARNING NEEDS

## CHAPTER 5 **E+W**

### GENERAL

*Pupils and students at Welsh institutions who are resident in England*

#### 87 **Application of reconsideration provisions to pupils and students resident in England** **E+W**

- (1) Subsections (2) and (3) of this section apply to a child or young person who is—
  - (a) in the area of a local authority in England, and
  - (b) a registered pupil at a maintained school in Wales.
- (2) Sections 26, 27, 29 (in its application to sections 26 and 27 only) and 32 apply to the child or young person with the following modifications—
  - (a) in section 26(1)(b), 27(1)(b) and 32(1)(b) for “the local authority responsible for the child or young person” substitute “ the local authority that maintains the school ”;
  - (b) in section 27(1)(a), for “or 12 (3) ” substitute “ , 12 (3) or 12(5) ”;
  - (c) in section 29(2), omit paragraph (b);
  - (d) in each of the sections the other references to “local authority” are to be interpreted as references to the local authority that maintains the school;
  - (e) the duty in section 27(6) may only be discharged in accordance with paragraph (a) of that provision.

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**Changes to legislation:** *Additional Learning Needs and Education Tribunal (Wales) Act 2018, Cross Heading: Pupils and students at Welsh institutions who are resident in England is up to date with all changes known to be in force on or before 27 May 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) View outstanding changes*

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- (3) Section 14 applies to the child or young person by virtue of subsection (2) and section 26(4) with the following modifications—
- (a) in section 14(1), omit “a local authority is responsible for a child or young person, and”;
  - (b) the references to “local authority” are to be interpreted as references to the local authority that maintains the school;
  - (c) the duty in section 14(2) may only be discharged in accordance with paragraph (b) of that provision;
  - (d) the duty in section 14(2) does not apply if—
    - (i) the local authority requests a local authority in England to secure an assessment under section 36 of the Children and Families Act 2014 (c. 6) and, by virtue of that request or otherwise, the authority in England is responsible for the child or young person (within the meaning given by section 24(1) of that Act), or
    - (ii) a local authority in England maintains an EHC plan for the child or young person;
  - (e) if, following a request under paragraph (d)(i), the local authority is notified by the local authority in England that it is not required to secure an EHC plan for the child, the duty in section 14(2) applies again in respect of the child or young person;
  - (f) subsections (6) to (10) of section 14 do not apply.
- (4) A local authority is responsible for a child or young person who is in the area of a local authority in England for the purposes of sections 68 and 69 if he or she is—
- (a) a registered pupil at a school maintained by the authority, or
  - (b) enrolled as a student at an institution in the further education sector in the authority's area.

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**Commencement Information**

**II** S. 87 in force at 1.9.2021 by [S.I. 2021/373](#), **art. 8(h)**

**Changes to legislation:**

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**Changes and effects yet to be applied to :**

- specified provision(s) coming into force by [S.I. 2021/381 art. 23](#) (This commencement not applied to [legislation.gov.uk](#). S.I. 2021/381 revoked (12.8.2021) by S.I. 2021/938, art. 3)
- specified provision(s) coming into force by [S.I. 2021/383 art. 23](#) (This commencement not applied to [legislation.gov.uk](#). S.I. 2021/383 revoked (12.8.20210) by S.I. 2021/938, art. 4)

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

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 4(3)(ca)(cb) inserted by [2022 asc 1 Sch. 4 para. 39\(2\)](#)
- s. 5(1)(da) inserted by [2022 asc 1 Sch. 4 para. 39\(3\)](#)
- s. 65(4)(da)(db) inserted by [2022 asc 1 Sch. 4 para. 39\(5\)](#)
- Sch. 1 para. 4(32)(a)(i)para. 4(32)(a)(ii)(b) coming into force by [S.I. 2022/893 art. 2\(o\)\(xi\)](#)