



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

41 Circumstances in which the duty in section 40(2) does not apply

- (1) The duty in section 40(2) does not apply if either of the circumstances in subsection (2) apply.
- (2) The circumstances are—
 - (a) the detained person is a young person who does not consent to a decision under section 40(2)(a) being made or to a plan being prepared;
 - (b) the home authority has previously decided whether the detained person has additional learning needs and it is satisfied that—
 - (i) the detained person's needs have not changed materially since that decision was made, and
 - (ii) there is no new information that materially affects a decision under section 40(2)(a) or (b).

Modifications etc. (not altering text)

- C1** S. 41(2)(a) modified (1.9.2021) by [The Additional Learning Needs \(Wales\) Regulations 2021 \(S.I. 2021/401\)](#), regs. 1(2), **38(c)**

Changes to legislation: Additional Learning Needs and Education Tribunal (Wales) Act 2018, Section 41 is up to date with all changes known to be in force on or before 17 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

Commencement Information

- I1** S. 41 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. 41 in force at 1.9.2021 for specified purposes by [S.I. 2021/373](#), **art. 5**
- I3** S. 41 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. 41 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**)
- I5** S. 41 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**)
- I6** S. 41 in force at 1.1.2022 for specified purposes by [S.I. 2021/1245](#), **arts. 3(e), 4** (with **art. 1(4)**)
- I7** S. 41 in force at 1.9.2022 for specified purposes by [S.I. 2022/892](#), **art. 3(e)** (with **arts. 2, 4-18**)
- I8** S. 41 in force at 1.9.2022 for specified purposes by [S.I. 2022/893](#), **art. 3** (with **art. 1(2)**)
- I9** S. 41 in force at 1.9.2022 for specified purposes by [S.I. 2022/896](#), **art. 3(e)** (with **arts. 4-22**) (as amended (21.8.2023) by [S.I. 2023/932](#), **art. 5**)
- I10** S. 41 in force at 1.9.2022 for specified purposes by [S.I. 2022/894](#), **art. 3(e)**
- I11** S. 41 in force at 1.9.2022 for specified purposes by [S.I. 2022/897](#), **art. 3(e)** (with **arts. 1(8), 4-21**) (as amended (21.8.2023) by [S.I. 2023/932](#), **art. 6**)
- I12** S. 41 in force at 1.9.2022 for specified purposes by [S.I. 2022/895](#), **arts. 3(e), 4**
- I13** S. 41 in force at 1.9.2022 for specified purposes by [S.I. 2022/893](#), **art. 4** (with **art. 1(2)**)
- I14** S. 41 in force at 1.9.2022 for specified purposes by [S.I. 2022/891](#), **art. 3(e)** (with **arts. 4-25**) (as amended (21.8.2023) by [S.I. 2023/932](#), **art. 4**)
- I15** S. 41 in force at 1.9.2022 for specified purposes by [S.I. 2022/898](#), **arts. 2(e), 3**

Changes to legislation:

Additional Learning Needs and Education Tribunal (Wales) Act 2018, Section 41 is up to date with all changes known to be in force on or before 17 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.

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Changes and effects yet to be applied to :

- s. 41 coming into force by [S.I. 2022/893 art. 2\(e\)](#)
- 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 (12.8.2021) 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\(o\)\(xi\)](#)