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## WELSH STATUTORY INSTRUMENTS

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# 2021 No. 861

## The Additional Learning Needs and Education Tribunal (Wales) Act 2018 (Consequential Amendments) Regulations 2021

### PART 2

#### Amendments to Primary Legislation

##### Local Government Act 1974

2.—(1) The Local Government Act 1974(1) is amended as follows.

(2) In Schedule 5, in paragraph 5(2)(b)(2), after “special educational needs (within the meaning given by section 579(1) of the Education Act 1996)” insert “or additional learning needs (within the meaning given by section 2 of the Additional Learning Needs and Education Tribunal (Wales) Act 2018)”.

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##### Commencement Information

I1 [Reg. 2](#) in force at 1.9.2021, see [reg. 1](#)

##### Education Act 1997

3.—(1) The Education Act 1997(3) is amended as follows.

(2) In section 32(6)(a)(4), for “special educational needs (as defined in section 312 of the Education Act 1996)” substitute “additional learning needs (as defined in section 2 of the Additional Learning Needs and Education Tribunal (Wales) Act 2018)”.

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##### Commencement Information

I2 [Reg. 3](#) in force at 1.9.2021, see [reg. 1](#)

##### Special Educational Needs and Disability Act 2001

4.—(1) The Special Educational Needs and Disability Act 2001(5) is amended as follows.

(2) In Schedule 8, Part 1, omit paragraph 12.

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(1) [1974 c. 7.](#)

(2) Paragraph 5 of Schedule 5 was amended by paragraph 63 of Schedule 3 to the Children and Families Act [2014 \(c. 6\)](#). Paragraph 5 also includes other amendments which are not relevant to these Regulations.

(3) [1997 c. 44.](#)

(4) There are amendments to section 32 which are not relevant to these Regulations.

(5) [2001 c. 10.](#)

### Commencement Information

**I3** Reg. 4 in force at 1.9.2021, see [reg. 1](#)

## Education Act 2002

**5.**—(1) The Education Act 2002(6) is amended as follows.

(2) In section 1(3)(7), in paragraph (g) of the definition of “qualifying body”, omit “or the National Assembly for Wales”.

(3) In section 2(5)(8), for “children with special educational needs” substitute—  
“—

(a) in relation to England, children with special educational needs, or

(b) in relation to Wales, persons under 25 with special educational needs.”

(4) After section 92 (pupils with EHC plans) insert—

### “Pupils with Individual Development Plans

**92A.** The additional learning provision described in an individual development plan prepared or maintained by a local authority in Wales under Part 2 of the Additional Learning Needs and Education Tribunal (Wales) Act 2018 may include provision—

(a) excluding the application of the National Curriculum for England, or

(b) applying the National Curriculum for England with such modifications as may be specified in the plan.”

### Commencement Information

**I4** Reg. 5 in force at 1.9.2021, see [reg. 1](#)

## Nationality, Immigration and Asylum Act 2002

**6.**—(1) The Nationality, Immigration and Asylum Act 2002(9) is amended as follows.

(2) In section 36—

(a) in subsection (3)(b), for “a statement in respect of the child under section 324 of the Education Act 1996 (c. 56) (special educational needs)” substitute “an individual development plan maintained for the child under section 14 or 19 of the Additional Learning Needs and Education Tribunal (Wales) Act 2018”;

(b) omit subsection (5)(d) and (e);

(c) after subsection (5)(f) omit “and”;

(d) after subsection (5)(g) insert “, and”;

(e) after subsection (5)(g) insert—

(6) 2002 c. 32.

(7) Section 1 was amended by paragraph 1 of Schedule 16 to the Education and Inspections Act 2006 (c. 40). Section 1 also includes other amendments which are not relevant to these Regulations. Paragraph (g) of the definition is substituted by the Education and Skills Act 2008 (c. 25) but the substitution is not yet in force.

(8) There are amendments to section 2 which are not relevant to these Regulations.

(9) 2002 c. 41.

- “(h) section 51 of the Additional Learning Needs and Education Tribunal (Wales) Act 2018 (duty to favour education for children at mainstream maintained schools).”;
- (f) for subsection (6) substitute—
- “(6) The power of the Education Tribunal for Wales under section 71(1) of the Additional Learning Needs and Education Tribunal (Wales) Act 2018 (decisions on appeals under section 70) is subject to subsection (2) above.”;
- (g) in subsection (7)—
- (i) in the words before paragraph (a), after “Children and Families Act 2014” insert “, Part 2 of the Additional Learning Needs and Education Tribunal (Wales) Act 2018” and after “special educational needs” insert “or additional learning needs”;
- (ii) after paragraph (a) insert—
- “(aa) the child receiving the additional learning provision called for by the child’s additional learning needs,”;
- (h) for subsection (9)(b) substitute—
- “(b) the person responsible for education at an accommodation centre may refer a case to a local authority under section 12(2)(a) of the Additional Learning Needs and Education Tribunal (Wales) Act 2018 as though—
- (i) a child for whom education is provided at the centre under section 29(1)(f) were a child who is a registered pupil at a school, and
- (ii) that person were the governing body of the school.”;
- (i) omit subsection (9)(c).

#### Commencement Information

**I5** Reg. 6 in force at 1.9.2021, see [reg. 1](#)

### Education Act 2005

- 7.—(1) The Education Act 2005(**10**) is amended as follows.
- (2) In section 28(**11**), omit subsections (2)(d) and (4)(d).

#### Commencement Information

**I6** Reg. 7 in force at 1.9.2021, see [reg. 1](#)

### Education and Inspections Act 2006

- 8.—(1) The Education and Inspections Act 2006(**12**) is amended as follows.
- (2) In section 16(1)(c)(**13**), after “section 324 of EA 1996 (statement of special educational needs)” insert “or an individual development plan under section 14 or 19 of the Additional Learning Needs and Education Tribunal (Wales) Act 2018”.

(10) 2005 c. 18.

(11) There are amendments to section 28 which are not relevant to these Regulations.

(12) 2006 c. 40.

(13) Section 16 was amended by paragraph 81 of Schedule 3(2) to the Children and Families Act 2014. There are other amendments to section 16 which are not relevant to these Regulations.

- (3) In section 88(5), omit “or the Assembly” in both places it occurs.

**Commencement Information**

**I7** [Reg. 8](#) in force at 1.9.2021, see [reg. 1](#)

**Qualifications Wales Act 2015**

**9.**—(1) The Qualifications Wales Act 2015(**14**) is amended as follows.

- (2) In section 57(5)(a), after “special educational needs” insert “or additional learning needs”.

**Commencement Information**

**I8** [Reg. 9](#) in force at 1.9.2021, see [reg. 1](#)

**Wales Act 2017**

**10.**—(1) The Wales Act 2017(**15**) is amended as follows.

- (2) In section 59(1), for paragraph (d) substitute—

“(d) the Education Tribunal for Wales or Tribiwnlys Addysg Cymru;”.

- (3) Omit section 62(4).

**Commencement Information**

**I9** [Reg. 10](#) in force at 1.9.2021, see [reg. 1](#)

**Coronavirus Act 2020**

**11.**—(1) The Coronavirus Act 2020(**16**) is amended as follows.

- (2) In Schedule 17, Part 1, paragraph 7(5)(**17**), after paragraph (g) insert—

“(ga) sections 13(1), 14(10), 19(7), 23(1) and 24(1) of the Additional Learning Needs and Education Tribunal (Wales) Act 2018 (provisions relating to individual development plans);”.

**Commencement Information**

**I10** [Reg. 11](#) in force at 1.9.2021, see [reg. 1](#)

(14) 2015 anaw 5.

(15) 2017 c. 4.

(16) 2020 c. 7.

(17) There are amendments to paragraph 7 which are not relevant to these Regulations.

**Changes to legislation:**

There are currently no known outstanding effects for the The Additional Learning Needs and Education Tribunal (Wales) Act 2018 (Consequential Amendments) Regulations 2021, PART 2.