
WELSH STATUTORY INSTRUMENTS

2021 No. 381 (W. 120) (C. 13)

EDUCATION, WALES

The Additional Learning Needs and Education
Tribunal (Wales) Act 2018 (Commencement No. 3
and Transitional and Saving Provisions) Order 2021

Made - - - - 22 March 2021

The Welsh Ministers, in exercise of the powers conferred by section 100(3) and (4) of the Additional Learning Needs and Education Tribunal (Wales) Act 2018^{M1}, make the following Order:

Marginal Citations

M1 2018 anaw 2.

Title and interpretation

1.—(1) The title of this Order is the Additional Learning Needs and Education Tribunal (Wales) Act 2018 (Commencement No. 3 and Transitional and Saving Provisions) Order 2021.

(2) In this Order—

“the 1996 Act” (“*Deddf 1996*”) means the Education Act 1996^{M2};

“the 2014 Act” (“*Deddf 2014*”) means the Children and Families Act 2014^{M3};

“the Act” (“*y Ddeddf*”) means the Additional Learning Needs and Education Tribunal (Wales) Act 2018;

“code” (“*cod*”) means a code on additional learning needs issued under section 4 of the Act;

“child” (“*plentyn*”) means a person who is not over compulsory school age;

“compulsory school age” (“*oedran ysgol gorfodol*”) has the same meaning as in section 8 of the 1996 Act;

“EHC needs assessment” (“*asesiad o anghenion AIG*”) has the same meaning as in section 36(2) of the 2014 Act;

“EHC plan” (“*cynllun AIG*”) has the same meaning as in section 37(2)^{M4} of the 2014 Act;

“individual development plan” (“*cynllun datblygu unigol*”) means a plan prepared and maintained under Chapter 2 of Part 2 of the Act;

Status: Point in time view as at 28/04/2021.

Changes to legislation: There are currently no known outstanding effects for the The Additional Learning Needs and Education Tribunal (Wales) Act 2018 (Commencement No. 3 and Transitional and Saving Provisions) Order 2021. (See end of Document for details)

“institution in the further education sector” (“*sefydliad yn y sector addysg bellach*”) has the same meaning as in section 99 of the Act;

“in the area of a local authority in England” (“*yn ardal awdurdod lleol yn Lloegr*”) has the same meaning as in section 579(3A)^{M5} of the 1996 Act;

“in the area of a local authority in Wales” (“*yn ardal awdurdod lleol yng Nghymru*”) has the same meaning as in section 579(3B)^{M6} of the 1996 Act;

“learning difficulty” (“*anhawster dysgu*”) has the same meaning as in—

(i) section 312(2)^{M7} of the 1996 Act—

(aa) in relation to a child in the area of a local authority in Wales but not a child who is a registered pupil at a mainstream school in England,

(bb) in relation to a child in the area of a local authority in England who is a registered pupil at a maintained school in Wales, as if “a child in the area of a local authority in Wales” were omitted,

(ii) section 20 of the 2014 Act in relation to a child in the area of a local authority in Wales who is a registered pupil at a mainstream school in England;

“local authority” (“*awdurdod lleol*”) has the same meaning as in section 579^{M8} of the 1996 Act;

“looked after child” (“*plentyn sy'n derbyn gofal*”) has the same meaning as a “child looked after by a local authority” in section 15 of the Act;

“mainstream school” (“*ysgol brifffrwd*”) has the same meaning as in section 83(2) of the 2014 Act;

“maintained school” (“*ysgol a gynhelir*”) means any community, foundation or voluntary school, maintained nursery school, or any community special school not established in a hospital within the meaning of the School Standards and Framework Act 1998^{M9};

“nursery class” (“*dosbarth meithrin*”) means a class of pupils who are provided with nursery education;

“nursery education” (“*addysg feithrin*”) has the same meaning as in section 117 of the School Standards and Framework Act 1998;

“parent” (“*rhiant*”) has the same meaning as in section 576 of the 1996 Act;

“registered pupil” (“*disgybl cofrestredig*”) has the same meaning as in section 434^{M10} of the 1996 Act;

“school day” (“*diwrnod ysgol*”) has the same meaning as in section 579(1) of the 1996 Act;

“school year” (“*blwyddyn ysgol*”) has the same meaning as in section 579^{M11} of the 1996 Act;

“special educational provision” (“*darpariaeth addysgol arbennig*”) has the same meaning as in—

(i) section 312(4)^{M12} of the 1996 Act—

(aa) in relation to a child in the area of a local authority in Wales but not a child who is a registered pupil at a mainstream school in England,

(bb) in relation to a child in the area of a local authority in England who is a registered pupil at a maintained school in Wales as if “in relation to a child in the area of a local authority in Wales” were omitted,

(ii) section 21 of the 2014 Act in relation to a child in the area of a local authority in Wales who is a registered pupil at a mainstream school in England;

“Tribunal” (“*Tribiwnlys*”) means the Education Tribunal for Wales^{M13};

“Tribunal Rules” (“*Rheolau'r Tribiwnlys*”) means Special Educational Needs Tribunal for Wales Regulations 2012^{M14};

“year 1” (“*blwyddyn 1*”) means a year group in which the majority of children will, in the school year, attain the age of 6;

“year 3” (“*blwyddyn 3*”) means a year group in which the majority of children will, in the school year, attain the age of 8;

“year 4” (“*blwyddyn 4*”) means a year group in which the majority of children will, in the school year, attain the age of 9;

“year 5” (“*blwyddyn 5*”) means a year group in which the majority of children will, in the school year, attain the age of 10;

“year 7” (“*blwyddyn 7*”) means a year group in which the majority of children will, in the school year, attain the age of 12;

“year 8” (“*blwyddyn 8*”) means a year group in which the majority of children will, in the school year, attain the age of 13;

“year 9” (“*blwyddyn 9*”) means a year group in which the majority of children will, in the school year, attain the age of 14;

“year 10” (“*blwyddyn 10*”) means a year group in which the majority of children will, in the school year, attain the age of 15;

“year group” (“*blwyddyn ysgol*”) means a group of children at a school the majority of whom will, in a particular school year, attain the same age.

(3) References in this Order to “the old law” are to Chapter 1 of Part 4 of the 1996 Act but excluding—

- (a) section 323;
- (b) section 329;
- (c) section 329A.

(4) References in this Order to “the new law” are to—

- (a) the Act,
- (b) a regulation or the code made under that Act, and
- (c) any other provision of or made under an Act that has effect for the purposes of or in relation to—
 - (i) a provision of that Act or such regulations or code, or
 - (ii) a person to whom that Act or such regulations or code applies.

(5) For the purposes of this Order an appeal is finally determined if—

- (a) a decision is made by a tribunal or court on the appeal, and
- (b) a request may be made to review the decision or it may be further appealed, the period (or each of the periods) for doing so expires without a review being requested or further appeal being brought.

(6) For the purposes of this Order, a local authority is responsible for a child if he or she is in the area of the authority.

Commencement Information

II Art. 1 in force at made date

Status: Point in time view as at 28/04/2021.

Changes to legislation: There are currently no known outstanding effects for the *The Additional Learning Needs and Education Tribunal (Wales) Act 2018 (Commencement No. 3 and Transitional and Saving Provisions) Order 2021*. (See end of Document for details)

Marginal Citations

- M2** 1996 c. 56.
- M3** 2014 c. 6.
- M4** Amended by the [Care Act 2014](#) and [Children and Families Act 2014 \(Consequential Amendments\) Order 2015 \(S.I. 2015/914\)](#), [article 2](#) and paragraph 97 of the Schedule.
- M5** Inserted by the [Children and Families Act 2014 \(c. 6\)](#), [section 82](#) and paragraphs 1 and 59 of Schedule 3 and amended by section 95 of the Act.
- M6** Inserted by the [Children and Families Act 2014 \(c. 6\)](#), [section 82](#) and paragraphs 1 and 59 of Schedule 3 and amended by section 95 of the Act.
- M7** Amended by the [Apprenticeships, Skills, Children and Learning Act 2009 \(c. 22\)](#), [section 59](#) and paragraphs 1 and 6 of Schedule 2, by the [Children and Families Act 2014 \(c. 6\)](#), [section 82](#) and paragraphs 1 and 11 of Schedule 3, by the [Local Education Authorities and Children's Services Authorities \(Integration of Functions\) Order 2010 \(S.I. 2010/1158\)](#), [article 5](#) and paragraph 7 of Schedule 2, by the [Education Act 1997 \(c. 44\)](#), [section 57](#), paragraph 23 of Schedule 7 and Schedule 8.
- M8** Definition of “local authority” was substituted by the [Local Education Authorities and Children's Services Authorities \(Integration of Functions\) Order 2010 \(S.I. 2010/1158\)](#), [article 3](#).
- M9** 1998 c. 31.
- M10** Amended by [School Standards and Framework Act 1998 \(c. 31\)](#), [section 140](#) and paragraph 111 of Schedule 30 and by the [Local Education Authorities and Children's Services Authorities \(Integration of Functions\) Order 2010 \(S.I. 2010/1158\)](#), [article 3](#).
- M11** Definition of “school year” was inserted by the [Education Act 1997 \(c. 44\)](#), [section 57](#), paragraph 43 of Schedule 7.
- M12** Amended by the [Children and Families Act 2014 \(c. 6\)](#), [section 82](#) and paragraphs 1 and 11 of Schedule 3, by the [Local Education Authorities and Children's Services Authorities \(Integration of Functions\) Order 2010 \(S.I. 2010/1158\)](#), [article 5](#) and paragraph 7 of Schedule 2, by the [School Standards and Framework Act 1998 \(c. 31\)](#), [section 140](#) and paragraph 71 of Schedule 30 and Schedule 31.
- M13** The Education Tribunal for Wales was previously known as the Special Educational Needs Tribunal for Wales. See section 91 of the [Additional Learning Needs and Education Tribunal \(Wales\) Act 2018](#).
- M14** [S.I. 2012/322 \(W. 53\)](#).

Meaning of identified special educational needs

2.—(1) For the purposes of this Order, a child (“C”) has “identified special educational needs” if C is a registered pupil at a maintained school in Wales and has a learning difficulty identified by the governing body which calls for special educational provision to be made for C.

(2) But does not include a child—

- (a) in relation to whom a local authority is maintaining a statement under section 324 of the 1996 Act;
- (b) in relation to whom a local authority is maintaining an EHC plan;
- (c) who is a registered pupil at a maintained school and—
 - (i) is a registered pupil or an enrolled student at another institution (that institution being a school or an institution in the further education sector), and
 - (ii) a local authority in Wales is responsible for that child;
- (d) who is a looked after child but not a looked after child who is in the area of a local authority in England;
- (e) in relation to whom a local authority has served a notice under section 323 of the 1996 Act and the assessment has not commenced and no notice has been given under section 323(6) of the 1996 Act;

- (f) in relation to whom a request has been made under section 329 or 329A of the 1996 Act for an assessment under section 323 of the 1996 Act and the local authority has not determined whether to assess;
- (g) in relation to whom a request has been made under section 329 or 329A of the 1996 Act for an assessment under section 323 of the 1996 Act and the local authority determines not to comply with the request and—
 - (i) the time within which an appeal under section 329(2) or 329A(8) of the 1996 Act has to be brought under Part B of the Tribunal Rules has not ended;
 - (ii) an appeal to the Tribunal under section 329(2) or 329A(8) of the 1996 Act in relation to that determination has been brought but not finally determined; or
 - (iii) an appeal to the Tribunal under section 329(2) or 329A(8) of the 1996 Act in relation to that determination was finally determined and the local authority was ordered to arrange an assessment, and that assessment has not commenced;
- (h) in relation to whom a local authority is undertaking an assessment of educational needs under section 323 of the 1996 Act;
- (i) in relation to whom a local authority proposes not to make a statement following an assessment and—
 - (i) the time within which an appeal under section 325(2) of the 1996 Act has to be brought under Part B of the Tribunal Rules has not ended;
 - (ii) an appeal to the Tribunal under section 325(2) of the 1996 Act in relation to that decision has been brought but not finally determined;
 - (iii) an appeal to the Tribunal under section 325(2) of the 1996 Act in relation to that decision was brought and finally determined and the local authority was ordered to—
 - (aa) make and maintain a statement and the making of the statement has not commenced; or
 - (bb) reconsider its decision and that reconsideration has not commenced;
- (j) in relation to whom a local authority must make a statement under section 324 of the 1996 Act but the making of the statement has not commenced;
- (k) in relation to whom the local authority has determined to cease to maintain a statement under paragraph 11(1) of Schedule 27 to the 1996 Act and—
 - (i) the time within which an appeal under paragraph 11(2)(b) of that Schedule has to be brought under Part B of the Tribunal Rules has not ended; or
 - (ii) an appeal to the Tribunal under paragraph 11(2)(b) of that Schedule has been brought in relation to that decision but not finally determined;
- (l) in relation to whom an assessment under section 331 of the 1996 Act is ongoing;
- (m) who is not over compulsory school age but in relation to whom an assessment under section 140 of the Learning and Skills Act 2000^{M15}—
 - (i) is ongoing; or
 - (ii) has resulted in a report of the person's educational and training needs and the provision required to meet them;
- (n) in relation to whom a request to a local authority has been made to secure an EHC needs assessment under section 36(1) of the 2014 Act and the local authority has not determined that request under section 36(3);
- (o) in relation to whom a local authority has determined under section 36 not to secure an EHC needs assessment and—

Status: Point in time view as at 28/04/2021.

Changes to legislation: There are currently no known outstanding effects for the The Additional Learning Needs and Education Tribunal (Wales) Act 2018 (Commencement No. 3 and Transitional and Saving Provisions) Order 2021. (See end of Document for details)

- (i) the period for pursuing mediation in relation to that determination under section 52 of the 2014 Act has not ended;
 - (ii) mediation under section 55 of the 2014 Act is ongoing in relation to that determination;
 - (iii) a mediation certificate has been issued under section 55(4) of the 2014 Act in relation to that determination and the period for submitting an appeal to the First-tier Tribunal under section 51 of the 2014 Act has not ended;
 - (iv) an appeal to the First-tier Tribunal under section 51(2)(a) of the 2014 Act in relation to that determination has been brought but not finally determined;
 - (v) an appeal to the First-tier Tribunal under section 51(2)(a) of the 2014 Act in relation to that determination has been brought and fully determined and the local authority was ordered to arrange an assessment or re-assessment, and that assessment or re-assessment has not commenced;
- (p) in relation to whom a local authority has served a notice under section 36(7) of the 2014 Act that it is considering securing an EHC needs assessment and —
- (i) the assessment has not commenced,
 - (ii) the assessment is ongoing, or
 - (iii) no notice has been served under section 36(9) of the 2014 Act;
- (q) in relation to whom a local authority has determined under section 36(9) of the 2014 Act that it is not necessary for special educational provision to be made in accordance with an EHC plan and—
- (i) the period for pursuing mediation in relation to that determination under section 52 of the 2014 Act has not ended;
 - (ii) mediation under section 55 of the 2014 Act is ongoing in relation to that determination;
 - (iii) a mediation certificate has been issued under section 55(4) of the 2014 Act in relation to that determination and the period for submitting an appeal to the First-tier Tribunal under section 51 of the 2014 Act has not ended;
 - (iv) an appeal to the First-tier Tribunal under section 51(2)(b) of the 2014 Act in relation to that determination has been brought but not finally determined;
 - (v) an appeal to the First-tier Tribunal under section 51(2)(b) of the 2014 Act in relation to that determination has been brought and finally determined and the local authority was ordered to—
 - (aa) make and maintain an EHC plan and the making of the EHC plan has not commenced; or
 - (bb) reconsider its decision and that reconsideration has not commenced;
- (r) in relation to whom a local authority has determined under section 36(9) of the 2014 Act that it is necessary for special educational provision to be made in accordance with an EHC plan but that plan is not prepared;
- (s) in relation to whom a local authority has determined under section 45 of the 2014 Act that it is no longer necessary for an EHC plan to be maintained and—
- (i) the period for pursuing mediation in relation to that determination under section 52 of the 2014 Act has not ended;
 - (ii) mediation under section 55 of the 2014 Act is ongoing in relation to that determination;

- (iii) a mediation certificate has been issued under section 55(4) of the 2014 Act in relation to that determination and the period for submitting an appeal to the First-tier Tribunal under section 51 of the 2014 Act has not ended;
- (iv) an appeal to the First-tier Tribunal under section 51(2)(f) of the 2014 Act in relation to that determination has been brought but not finally determined.

Commencement Information

I2 Art. 2 in force at made date

Marginal Citations

M15 2000 c. 21.

Provisions coming into force on 1 September 2021

3. The following provisions of the Act come into force on 1 September 2021 in relation to a child who has identified special educational needs on 1 September 2021—

- (a) sections 2 to 4;
- (b) sections 6 to 14;
- (c) sections 16 to 36;
- (d) section 38;
- (e) sections 40 to 44;
- (f) sections 47 to 49;
- (g) section 50(1) for the purposes of the provisions in paragraph (h);
- (h) section 50(4) to (5);
- (i) sections 51 to 53;
- (j) section 55;
- (k) section 59;
- (l) sections 63 to 66;
- (m) sections 68 to 69;
- (n) section 96 for the purposes of the provisions in paragraph (o);
- (o) in the Schedule—
 - (i) paragraph 1;
 - (ii) paragraph 4(1) for the purposes of the provisions in sub-paragraphs (iii) to (x);
 - (iii) paragraph 4(2) to 4(8);
 - (iv) paragraph 4(9);
 - (v) paragraph 4(10);
 - (vi) paragraph 4(13) to 4(18);
 - (vii) paragraph 4(19)(b);
 - (viii) paragraph 4(20) and 4(21);
 - (ix) paragraph 4(23) to 4(29);
 - (x) paragraph 4(32)(a)(i) and (ii) and paragraph 4(32)(b);
 - (xi) paragraph 7;

Status: Point in time view as at 28/04/2021.

Changes to legislation: There are currently no known outstanding effects for the The Additional Learning Needs and Education Tribunal (Wales) Act 2018 (Commencement No. 3 and Transitional and Saving Provisions) Order 2021. (See end of Document for details)

- (xii) paragraph 8;
- (xiii) paragraph 11(a);
- (xiv) paragraph 12(a);
- (xv) paragraph 14(1) for the purposes of the provisions in sub-paragraph (xvi);
- (xvi) paragraph 14(2) and (3);
- (xvii) paragraph 19(1) for the purpose of the provision in sub-paragraph (xviii);
- (xviii) paragraph 19(5)(e)(ii);
- (xix) paragraph 21(1) for the purposes of the provisions in sub-paragraph (xx);
- (xx) paragraph 21(2)(a)(i) and (2)(b)(ii);
- (xxi) paragraph 22;
- (xxii) paragraph 23(1) for the purpose of the provision in sub-paragraph (xxiii);
- (xxiii) paragraph 23(4);
- (xxiv) paragraph 24(1) for the purposes of the provisions in sub-paragraph (xxv);
- (xxv) paragraph 24(2) to (3), (5) and (6)(a).

Commencement Information

I3 Art. 3 in force at made date

Saving provision

4. Subject to articles 7 to 12 and articles 14 to 16, despite the disapplication by section 96 and paragraph 4(9) of the Schedule to the Act of Chapter 1 of Part 4 of the 1996 Act^{M16} in relation to a child who has identified special educational needs—

- (a) the old law continues to have effect in relation to that child; and
- (b) the new law does not have effect in relation to that child.

Commencement Information

I4 Art. 4 in force at made date

Marginal Citations

M16 See article 3 of this Order which commenced those provisions.

IDP notice

5. An IDP notice is a notice given to a child and a child's parent which confirms that—
- (a) the child has additional learning needs for the purposes of Chapter 2 of Part 2 of the Act; and
 - (b) an individual development plan will be prepared for the child (unless a local authority is required to secure an EHC plan following a request under section 12(2)(c) of the Act).

Commencement Information

I5 Art. 5 in force at made date

No needs notice

6. A no needs notice is a notice given to a child and a child's parent which confirms that the governing body has decided that the child does not have additional learning needs for the purposes of Chapter 2 of Part 2 of the Act.

Commencement Information

I6 Art. 6 in force at made date

Effect of IDP notice

- 7.** The effect of the IDP notice is that—
- (a) the governing body is deemed to have decided on the date of the notice that the child has additional learning needs under Chapter 2 of Part 2 of the Act;
 - (b) the new law applies in relation to the child on that date; and
 - (c) the old law ceases to apply in relation to the child on that date.

Commencement Information

I7 Art. 7 in force at made date

Effect of no needs notice

- 8.** The effect of the no needs notice is that—
- (a) the governing body is deemed to have decided on the date of the notice that the child does not have additional learning needs under Chapter 2 of Part 2 of the Act;
 - (b) the new law applies in relation to the child on that date; and
 - (c) the old law ceases to apply in relation to the child on that date.

Commencement Information

I8 Art. 8 in force at made date

Duty to give a notice

9.—(1) This article applies to a child who on 1 September 2021 has identified special educational needs and who is in a nursery class, year 1, year 3, year 5, year 7 or year 10.

(2) Subject to article 12, the governing body which provides the special educational provision to the child must either give an IDP notice or a no needs notice to the child and the child's parent during the 2021-2022 school year.

Status: Point in time view as at 28/04/2021.

Changes to legislation: There are currently no known outstanding effects for the The Additional Learning Needs and Education Tribunal (Wales) Act 2018 (Commencement No. 3 and Transitional and Saving Provisions) Order 2021. (See end of Document for details)

Commencement Information

I9 Art. 9 in force at made date

10.—(1) This article applies to a child who on 1 September 2022 has identified special educational needs and who is in a nursery class, year 1, year 5, year 9 or year 10 during the school year 2022-2023.

(2) Subject to article 12, the governing body which provides the special educational provision to the child must either give an IDP notice or a no needs notice to the child and the child's parent during the 2022-2023 school year.

Commencement Information

I10 Art. 10 in force at made date

11.—(1) This article applies to a child who on 1 September 2023 has identified special educational needs and who did not come within article 9 or 10.

(2) Subject to article 12, the governing body which provides the special educational provision to the child must either give an IDP notice or a no needs notice to the child and the child's parent during the 2023-2024 school year.

Commencement Information

I11 Art. 11 in force at made date

Right to request an IDP notice or a no needs notice

12. A child who on 1 September 2021 had identified special educational needs or that child's parent may request that the governing body of the school at which the child is a registered pupil gives an IDP notice or a no needs notice and the governing body must give either an IDP notice or a no needs notice within 10 school days of the request.

Commencement Information

I12 Art. 12 in force at made date

Time for giving an individual development plan

13.—(1) When an IDP notice is given pursuant to articles 9, 10, 11 or 12 the governing body must give a copy of the individual development plan to the child and the child's parent within 35 school days of the date of the notice unless—

- (a) any of the circumstances in section 12(2) of the Act apply; or
- (b) there are exceptional circumstances.

(2) If there are exceptional circumstances a copy of the individual development plan must be given as soon as is reasonably practicable.

(3) Any timescales in the code relating to the preparation by a governing body of an individual development plan do not apply when an individual development plan is prepared following the giving of an IDP notice.

Commencement Information

I13 Art. 13 in force at made date

Notice not given

14.—(1) This article applies to a child who had identified special educational needs on 1 September 2021 and who was in a nursery class, year 1, year 3, year 5, year 7 or year 10 during the 2021-2022 school year and did not receive an IDP notice or a no needs notice before the 31 August 2022.

(2) On 31 August 2022—

- (a) the new law applies in relation to the child; and
- (b) the old law ceases to apply in relation to the child.

Commencement Information

I14 Art. 14 in force at made date

15.—(1) This article applies to a child who had identified special educational needs on 1 September 2021 and who was in a nursery class, year 1, year 5, year 9 or year 10 during the 2022-2023 school year and did not receive an IDP notice or a no needs notice before the 31 August 2023.

(2) On 31 August 2023—

- (a) the new law applies in relation to the child; and
- (b) the old law ceases to apply in relation to the child.

Commencement Information

I15 Art. 15 in force at made date

16.—(1) This article applies to a child who had identified special educational needs on 1 September 2021 and did not receive an IDP notice or a no needs notice before the 31 August 2024.

(2) On 31 August 2024—

- (a) the new law applies in relation to the child; and
- (b) the old law ceases to apply in relation to the child.

Commencement Information

I16 Art. 16 in force at made date

Status: Point in time view as at 28/04/2021.

Changes to legislation: There are currently no known outstanding effects for the The Additional Learning Needs and Education Tribunal (Wales) Act 2018 (Commencement No. 3 and Transitional and Saving Provisions) Order 2021. (See end of Document for details)

[^{F1}16A.—(1) This article applies to a child who had identified special educational needs on 1 September 2021—

- (a) who ceases to be a registered pupil at the first school,
- (b) for whom a request for an IDP notice or a no needs notice has not been made, and
- (c) in relation to whom the old law applies.

(2) On the date that the child ceases to be a registered pupil at the first school—

- (a) the new law applies in relation to the child, and
- (b) the old law ceases to apply in relation to the child.

(3) In this article—

- (a) “ceases to be a registered pupil” means that the pupil’s name is deleted from the admission register of the school in accordance with the Education (Pupil Registration) (Wales) Regulations 2010;
- (b) “first school” means the maintained school at which the child was a registered pupil on 1 September 2021.

Textual Amendments

F1 Arts. 16A-16C inserted (28.4.2021) by [The Additional Learning Needs and Education Tribunal \(Wales\) Act 2018 \(Commencement No. 3 and No. 4 and Transitional and Saving Provisions\) \(Amendment\) Order 2021 \(S.I. 2021/516\)](#), **art. 2**

16B.—(1) This article applies to a child who had identified special educational needs on 1 September 2021—

- (a) who becomes a registered pupil or an enrolled student at another institution (that institution being a school or institution in the further education sector),
- (b) for whom a local authority in Wales is responsible,
- (c) for whom a request for an IDP notice or a no needs notice has not been made, and
- (d) in relation to whom the old law applies.

(2) On the date that the child becomes a registered pupil or an enrolled student at another institution—

- (a) the new law applies in relation to the child, and
- (b) the old law ceases to apply in relation to the child.

Textual Amendments

F1 Arts. 16A-16C inserted (28.4.2021) by [The Additional Learning Needs and Education Tribunal \(Wales\) Act 2018 \(Commencement No. 3 and No. 4 and Transitional and Saving Provisions\) \(Amendment\) Order 2021 \(S.I. 2021/516\)](#), **art. 2**

16C.—(1) This article applies to a child who had identified special educational needs on 1 September 2021—

- (a) who becomes a child looked after by a local authority within the meaning of section 15 of the Act,
- (b) for whom a request for an IDP notice or a no needs notice has not been made, and
- (c) in relation to whom the old law applies.

(2) On the date that the child becomes a child looked after by a local authority within the meaning of section 15 of the Act—

- (a) the new law applies in relation to the child, and
- (b) the old law ceases to apply in relation to the child.]

Textual Amendments

- F1** Arts. 16A-16C inserted (28.4.2021) by The Additional Learning Needs and Education Tribunal (Wales) Act 2018 (Commencement No. 3 and No. 4 and Transitional and Saving Provisions) (Amendment) Order 2021 (S.I. 2021/516), **art. 2**

Regard to special educational provision provided before IDP notice

17. When preparing an individual development plan for a child as a result of an IDP notice given under this Order, the governing body or local authority (as the case may be) must have regard to the special educational provision provided to the child immediately before the IDP notice was given.

Commencement Information

- I17** Art. 17 in force at made date

Kirsty Williams
Minister for Education, one of the Welsh
Ministers

Status: Point in time view as at 28/04/2021.

Changes to legislation: There are currently no known outstanding effects for the The Additional Learning Needs and Education Tribunal (Wales) Act 2018 (Commencement No. 3 and Transitional and Saving Provisions) Order 2021. (See end of Document for details)

EXPLANATORY NOTE

(This note is not part of the Order)

This Order brings into force provisions of the Additional Learning Needs and Education Tribunal (Wales) Act 2018 (“the Act”).

The Act establishes a statutory framework for supporting children and young people with additional learning needs. This replaces the legislation surrounding special educational needs and the assessment of children and young people with learning difficulties.

The provisions listed in article 3 come into force on 1 September 2021 in relation to those who are not over compulsory school age, attend a maintained school (not including a pupil referral unit) and who have identified special educational needs. It excludes some others engaged with the current statutory framework including those with a statement of special educational needs.

Article 1 contains definitions, including the “new law” in the Act and the “old law” in Part 4 of the Education Act 1996. Until a child is transferred to the new law the old law will continue to apply to the child and the new law will not have effect.

This Order requires the governing body to give a notice to a child in a particular year group in a particular school year (articles 9 to 11). For example, a child in a nursery class, or in year 1, 3, 5, 7, or 10 will transfer to the new law during the school year 2021-2022. The date of the notice given to a particular child will be the date that child transfers to the new law.

The governing body can give the child an IDP notice or a no needs notice. An IDP notice means that the child is deemed to have additional learning needs for the purposes of Chapter 2 of Part 2 of the Act on the date of the notice and that it is intended that an individual development plan is prepared for the child (article 5). A no needs notice means that the child is deemed not to have additional learning needs for the purposes of Chapter 2 of Part 2 of the Act on the date of the notice (article 6).

Where an individual development plan is prepared following an IDP notice, the governing body must give a copy of the individual development plan to the child and the child's parent within 35 school days of the date of the notice unless certain circumstances apply (article 13).

If the governing body fails to provide a child with a notice during the school year the child should have transferred to the new law, the old law ceases and the new law has effect on the final day of the relevant school year (articles 14 to 16).

A child with identified special educational needs or the child's parent can request that a notice is given (article 12).

When preparing an individual development plan for a child with identified special educational needs regard must be had to the special educational provision the child was receiving immediately before the IDP notice was given (article 17).

NOTE AS TO EARLIER COMMENCEMENT ORDERS

^{M17}The following provisions of the Act have been brought into force by Commencement Order made before the date of this Order :

<i>Provision</i>	<i>Date of Commencement</i>	<i>S.I. No</i>
Section 4 (partially)	2 November 2020	S.I. 2020/1182 (W. 267) (C. 33)
Section 5	2 November 2020	S.I. 2020/1182 (W. 267) (C. 33)
Section 7 (partially)	2 November 2020	S.I. 2020/1182 (W. 267) (C. 33)
Section 8 (partially)	2 November 2020	S.I. 2020/1182 (W. 267) (C. 33)

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Section 15	2 November 2020	S.I. 2020/1182 (W. 267) (C. 33)
Section 16 (partially)	2 November 2020	S.I. 2020/1182 (W. 267) (C. 33)
Section 21 (partially)	2 November 2020	S.I. 2020/1182 (W. 267) (C. 33)
Section 32 (partially)	2 November 2020	S.I. 2020/1182 (W. 267) (C. 33)
Section 36 (partially)	2 November 2020	S.I. 2020/1182 (W. 267) (C. 33)
Section 37	2 November 2020	S.I. 2020/1182 (W. 267) (C. 33)
Section 39	2 November 2020	S.I. 2020/1182 (W. 267) (C. 33)
Section 45	2 November 2020	S.I. 2020/1182 (W. 267) (C. 33)
Section 46	2 November 2020	S.I. 2020/1182 (W. 267) (C. 33)
Section 47 (partially)	2 November 2020	S.I. 2020/1182 (W. 267) (C. 33)
Section 54 (partially)	2 November 2020	S.I. 2020/1182 (W. 267) (C. 33)
Section 56 (partially)	2 November 2020	S.I. 2020/1182 (W. 267) (C. 33)
Section 56(1)	4 January 2021	S.I. 2020/1182 (W. 267) (C. 33)
Section 56(4) to (6)	4 January 2021	S.I. 2020/1182 (W. 267) (C. 33)
Section 60	4 January 2021	S.I. 2020/1182 (W. 267) (C. 33)
Section 61	4 January 2021	S.I. 2020/1182 (W. 267) (C. 33)
Section 62	4 January 2021	S.I. 2020/1182 (W. 267) (C. 33)
Section 65 (partially)	2 November 2020	S.I. 2020/1182 (W. 267) (C. 33)
Section 67	2 November 2020	S.I. 2020/1182 (W. 267) (C. 33)
Section 74	2 November 2020	S.I. 2020/1182 (W. 267) (C. 33)
Section 75 (partially)	2 November 2020	S.I. 2020/1182 (W. 267) (C. 33)
Section 76 (partially)	2 November 2020	S.I. 2020/1182 (W. 267) (C. 33)
Section 77 (partially)	2 November 2020	S.I. 2020/1182 (W. 267) (C. 33)
Section 82	2 November 2020	S.I. 2020/1182 (W. 267) (C. 33)
Section 83 (partially)	2 November 2020	S.I. 2020/1182 (W. 267) (C. 33)
Section 85 (partially)	2 November 2020	S.I. 2020/1182 (W. 267) (C. 33)
Section 91 (partially)	2 November 2020	S.I. 2020/1182 (W. 267) (C. 33)
Section 92 (partially)	2 November 2020	S.I. 2020/1182 (W. 267) (C. 33)
Section 95 (partially)	2 November 2020	S.I. 2020/1182 (W. 267) (C. 33)
Section 96 (partially)	2 November 2020	S.I. 2020/1182 (W. 267) (C. 33)
The Schedule, paragraph 19(1),(4) and (5)(g) and (h) (partially)	2 November 2020	S.I. 2020/1182 (W. 267) (C. 33)

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